



IRELAND UNDER THE  
LAND ACT.

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# IRELAND UNDER THE LAND ACT:

*LETTERS CONTRIBUTED TO THE 'STANDARD' NEWSPAPER;*

WITH AN APPENDIX OF LEADING CASES UNDER THE ACT,  
GIVING THE EVIDENCE IN FULL, JUDICIAL DICTA, &c.

BY

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BARRISTER-AT-LAW



CHIATTO & WINDUS, PICCADILLY.

1882.





TO  
THE EDITOR OF 'THE STANDARD'  
THIS VOLUME IS  
RESPECTFULLY DEDICATED.



## PREFACE.

TOWARDS the end of September last, I was entrusted by the Editor of the *Standard* with a special mission to Ireland, for the purpose of watching and reporting impartially upon the working of the latest Land Act. How I should go about to fulfil this general instruction was left to my absolute discretion. At first it seemed possible that my duties would mainly be to attend the sittings of the various Sub-Commissions, and to observe the effect of their decisions upon the public mind. The apparently hostile attitude of the Land League towards the Commission, however, seriously altered and complicated the problem to be considered. Whether the leaders of the League, in the course they pursued, really aimed, as they stated, at extracting, for their clients, the greatest possible amount of benefit from the new legislation; or whether, as the Government ultimately assumed, they were striving to defeat a measure which might have some influence in the direction of reconciling the people to the British connection, I shall not pretend to determine. But I made it my business forthwith to request from the popular leaders a statement of their views and intentions in the matter. This was at once accorded me; and I was further permitted, not only to attend the demonstrations and conventions of the Leaguers, but even to accompany an expedition in search of the mysterious 'lost-

cases.' To Mr. Parnell, M.P., Mr. T. P. O'Connor, M.P., Mr. Healy, M.P., and their associates, my acknowledgments are due for the ready courtesy and kindness upon every occasion extended towards me. The gentlemen named were, I believe, of opinion that my letters showed an anxious desire to be fair. I cannot, of course, hope that I have pleased everybody, in a country where, as seen sometimes even upon the Judicial Bench, men usually entertain very strong convictions of the entire justice of one side or the other in the old quarrel. Indeed, I have at different times been made aware that I have seriously offended the Leaguers, the landlords, and the Government itself. If, therefore, I have been unfair all round, it is clear that the balance of political credit has been upon the whole left undisturbed by such impartial malice. I owe sincere thanks to the Chief Commissioners, and to various members of their staff, and particularly to their Under-Secretary, Mr. Micks, for information constantly and cheerfully afforded me. I am under equal obligations to several of the Assistant Commissioners; and to many unofficial gentlemen, including Mr. E. Dwyer Gray, M.P., Mr. O'Donnell, M.P., and Mr. Gyles, Secretary of the Irish Land Committee.

I have added to my work a selection of the leading cases under the Act, exemplifying its main results upon the relations between landlord and tenant in Ireland. They have been selected, and carefully edited, chiefly from the admirable reports contained in the Dublin 'Daily Express.' In the letters, which the authorities of the 'Standard' have generously permitted me to republish, the utmost pains have been taken to ensure accuracy; the more so, as no other correspondent of a London newspaper happened to be in Ireland with a similar mission. Government officials, high dignitaries of the Roman Catholic Church, the most

powerful among the leaders of the League, distinguished Irish statesmen, great landed proprietors, agents, merchants, shopkeepers, and last, but not least, Irish tenants themselves—have all in turn contributed something to the following pages.

The picture offered to the reader is, it must be confessed, a painful one. Up to the present time I cannot detect the faintest glimmer of hope in the prospect. I was, as will be seen from what I have written, early impressed with that horror of the inhuman system of night outrages which is perfectly natural to a man fresh from our own happy shores; but which, I fear, many Irishmen, accustomed to the spectacle of such outrages upon every outbreak of popular discontent, regard as somewhat overstrained and affected. I still believe that but small advance will be made in the re-establishment of necessary social conditions until those outrages have ceased. It is with deep regret that I feel called upon to notice the (to me) inexplicable neglect of those who have influence with the people to denounce the commission of these crimes. Mr. Gray, M.P., has lately done his utmost in this direction, through the columns of the 'Freeman's Journal;' and one eminent Leaguist has gone so far as to protest against the maiming and wounding of brutes. But the mass of the people are cowed by the knowledge that such deeds as the murder of O'Leary, and the shooting of old Keefe, have practically gone unreprieved by the leaders of the agitation; and that the sympathies of those leaders are notoriously withdrawn from men who obey the law. The Roman Catholic Bishops, moreover, with a few noble exceptions, have scarcely acted up to a merely mundane conception of their duty in such circumstances. Either they have no influence over the people, or they have too long abstained from using it to save from mutilation

wretches, whose sole crime was to observe the injunction 'Owe no man anything.' Where are the historic terrors of the Church? Are they fables? Or are they put away in the Vatican, like birch-rods, as useless to coerce the grown, set and hardened intelligence of these latter days? It may be that Ireland will one day resume her long lost place among the great and prosperous sisterhood of nations. But, as yet, she chooses rather to dwell chained among the tombs of vanished wrongs.

H. CANT-WALL.

THE TEMPLE,  
8th February, 1882.

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# IRELAND UNDER THE LAND ACT.

## CHAPTER I.

### *ORGANISING THE COMMISSION.*

DUBLIN: Saturday, September 24, 1881.

In a few days the Commissioners will enter upon the administration of the new Land Act throughout Ireland. The Bill received the Royal Assent on August 22 last. Without delay the Commissioners established their headquarters at 24, Upper Merrion Street, Dublin—a fine old mansion, formerly used by the Church Temporalities Commission, and full of large, well-lighted rooms. Here, during the past month, a large staff of writers has been employed in preparing for the actual business of the Commission. It was necessary, in the first place, to communicate with those officers of the different Civil Bill Courts, who, upon their districts being visited, are, under the Act, to attend the Commissioners and Assistant Commissioners in the local Court-houses. An extensive correspondence has proceeded with enquirers eager to commence proceedings of one kind and another, or desirous of information about the meaning of particular clauses of the Act. The technical language, the interminable provisions, lost in a maze of exceptions, the length and large scope of the measure, fairly bewildered the honest farmers who attempted to master it. It was therefore decided to draw up a full, clear, and accurate explanatory statement, to be printed and

circulated at a nominal price. This document has been found of great service in spreading and popularising a knowledge of the new law. But the most serious labour of the Commissioners has undoubtedly been the devising of a complete set of Rules, over one hundred in number, making provision for the various proceedings which may be taken before them. These Rules, which have been submitted to the County-court Judges for suggestions and amendments, will probably be issued as finally revised and approved on, or shortly after, Monday next. They are framed in direct, simple terms, so that a shrewd tenant, too poor to employ legal assistance, may, at least with the help of his priest or a friendly schoolmaster, appreciate and claim all the benefits intended for him.<sup>1</sup>

There will be no pleadings, to protract proceedings unduly, or render them vexatious. Forms have been prepared to be used—(1) by a tenant desirous of selling his tenancy in a holding; (2) by a landlord, or tenant, or both together, intending to apply for the fixing of a 'fair rent.' In these forms the following particulars must be accurately stated:—Name and residence (if known) of the landlord; name and residence of landlord's agent, if any; name and residence of tenant; post-office from which tenant receives his letters; county, Poor-law union, and electoral division in which the holding is situate, together with the area in statute measure, rent, and gross Poor-law valuation of the holding. Directions are appended showing how the forms are to be filled up, and these are so minute that there can be no difficulty in preparing notices in the proper manner. As soon as a notice has been sent in, by either landlord or tenant, a copy, together with the

<sup>1</sup> The Catholic Bishops and clergy of Ireland would appear to have missed, owing doubtless in some degree to the action of the Land League, the opportunity of rendering a rare service to their countrymen. The proceedings before a Sub-Commission are as informal as in an English County Court; and if the priests had undertaken the filling-up of notices, and to advise their parishioners about the conduct of their cases, the Commissioners would have made all necessary allowances. Thus a large sum spent in law costs might have been saved.

application founded upon it, will be sent to the Registrar of the Commission, and when a number of such notices and applications have been filed in Dublin, sufficient to warrant the despatch of a Sub-Commission to the neighbourhood, that course will be taken. Each of the four Sub-Commissions will be presided over by one of the legal gentlemen already appointed—namely, Mr. Robert Rooves, Q.C., Mr. Kano, Mr. J. G. MacCarthy, and Mr. Groer. With the one who out of these four happens to be selected for a particular Sub-Commission, will be associated two other lay Assistant Commissioners. These have not yet been named by the Lord Lieutenant; but it is understood that there will be at least eight chosen, and that they will be selected solely on account of their practical knowledge of farming operations and of the value of land. These lay Assistant Commissioners will, in all probability, be employed only in the province or district with which they are best acquainted.

The Sub-Commission, thus constituted, will proceed to some large town in the neighbourhood of the properties owned and occupied by a group of litigants. It will sit at the place which can be most conveniently reached by all the parties, regard being had, of course, to railways and other means of locomotion. It is, for instance, proposed to send Sub-Commissions to Omagh, Galway, and Belfast. There will, of course, be one for Dublin, and even Kilkenny may be similarly honoured. To each of the dozen or more towns thus constituted local centres of jurisdiction, will be referred the business from the surrounding district, perhaps even of several counties. In one further particular the Commissioners will themselves personally illustrate the spirit of the new legislation, by bringing justice to every man's door. Inconvenient as it may be, they intend, as a rule, to go down and hear appeals from Sub-Commissions on the spot. They will thus put needy suitors on an equality with rich ones, by rendering unnecessary expensive journeys to the capital. Many persons expect that the tenants will prefer to resort to the Sub-Commissions rather than to the Civil Bill Courts; and in that case the number of Assistant Commissioners must

be largely augmented.<sup>1</sup> If the Rules really are published next Monday or Tuesday, it is certain that from some parts of the country, where the Land League influence is not very powerful, there will pour in an immediate stream of 'applications,' and no delay whatever will be made by the Sub-Commissions in getting to work. It is improbable that appeals will be taken for at least three months afterwards.<sup>2</sup>

The question of greatest interest here is to what extent or upon what system will the Commission reduce rents. Few persons seem to expect that rents will be, except in rare cases, raised, in view of the presumed disinclination of landlords to encounter the inevitable outcry attaching to such a proceeding. It is, in Dublin at least, admitted that three better chief appointments could hardly have been made. Serjeant O'Hagan is a popular favourite, and his elevation is moreover a delicate compliment to the Catholic Bishops, who unanimously, and almost regretfully, recall the uprightness, geniality, and learning of their late standing counsel. Mr. Vernon's name is known over many counties as a synonym for just dealing and impartiality; and a Court to arbitrate upon the question of rents has long been advocated both by him and by Mr. Litton. Mr. Vernon, for an agent, holds singularly liberal views. His excellent relations with the tenantry under his control are well known; and have probably qualified him in the eyes of the Premier (who is understood to be solely responsible for the selection of Mr. Vernon) to represent the landlord interest with discretion upon the Commission. He has a frank, cordial, at times almost playful, manner, yet is keen to seize upon a point, and dignified

<sup>1</sup> This expectation has been only too thoroughly justified. Amongst other causes contributing to the comparative nullification of the Act of 1870, must be reckoned the stinting, unsympathetic administration of its provisions by the County Court Judges. The suspicion and odium into which those Judges consequently fell have in turn imperilled, at the outset, the success of the holder measure of 1881, by throwing all the work upon the Sub-Commissions.

<sup>2</sup> The Commission first sat to hear appeals at Belfast on January 10, 1882.

in the discharge of his duties. He is growing grey; but his eyes are still bright and clear, and twinkle merrily when, as now and then happens, he finds occasion to illustrate his subject with an Horatian maxim. Mr. Litton is a polished lawyer, of not unkindly disposition, but frigid and reserved in temperament. His appointment was not so welcome to the landlords as Mr. Vernon's, but it is believed that his legal training will act as some check upon him. His views upon the subject of 'fair rent' may, perhaps, be best gathered from the definition of it in his 'Fixity of Tenure Bill.' It runs as follows:—'The rent to be deemed the fair rent shall be that which a solvent and responsible tenant could at the time of the enquiry afford to pay, fairly and without collusion, for the premises, after deducting from such rent, first, the addition to the letting value of the premises referable to any unexhausted and suitable improvements made by the tenant or his predecessors in title, and after deducting, secondly, any increase of letting value referable to the expenditure of labour or capital of the tenant, whether the same be capable of being specified in detail or not; and the Judge shall further take into consideration any variation in the average price of agricultural produce or stock which shall have taken place since the holding was last in the possession of the landlord or his predecessors in title, if evidence of the same be offered.'

It is admittedly impossible to define in common terms, universally applicable, what is a fair rent. But it is obvious that Mr. Litton, himself a landlord, who has drawn up such a clause as that now cited, entertains very advanced views as to the tenant's interest in the matter. Mr. Parnell's suspicious, not to say hostile, attitude towards the Commission may not, therefore, be justified by events. It is not supposed that every heated utterance at the recent National Convention of the Land League is to be recorded as the settled, unalterable conviction of the speaker and of the League. Indeed, it is very doubtful whether the fourth and fifth resolutions passed at the Convention, restraining the tenants from resorting to the Commission until the decisions in certain test

cases, to be selected by the 'Executive,' are known, will have more than a partial and temporary effect. At all events, several bodies of tenant-farmers in Ulster have bound themselves together, under a new name, for the express purpose of working the Act. Curiously enough, a pamphlet just published by Mr. Healy, who may be considered the 'Law Adviser' of the League, explains the Act in the clearest way, points out its advantages, and even gives the tenants elaborate advice about the prosecution of their claims, which, to the poorer class of them, will be of the greatest encouragement and service. Mr. Healy's pamphlet is almost a suggestion to the tenantry to give the Act a fair trial. It is consequently possible that Mr. Parnell may yet be moved to relent. But it must be admitted that there is no sign, so far, of any concession, on his part, to the growing feeling in favour of the Act. It might without unfairness be suggested that Mr. Parnell has, like Mr. Healy, unwittingly counselled his followers to accept the Act. At the Convention he advised tenant-farmers, first, to avoid statutory terms. He again recommended them, in the interest of the labourers, to take advantage of the 31st Section of the Act, and to borrow money from the Government for the erection of labourers' cottages. It may be remarked, in this connection, that the Commission will in all likelihood only make advances under that Section upon the borrower's accepting a statutory tenancy. The Section, however, authorises a loan upon the tenancy, 'or other security, or when the landlord joins the occupier in giving security.' Mr. Parnell perhaps supposes that the Treasury may consider the latent right of the occupier to obtain the statutory tenancy, or to sell, a sufficient security. At first sight he would certainly appear to have spoken without due consideration.

The Land Commission may also expect to be utilised as a selling agency. This department of its business is under the special charge of the late Acting Secretary, Mr. Marrough O'Brien, who enjoys the reputation of being a highly experienced valuer, and has one of those names which inspire confidence in Ireland. He is necessarily well acquainted

with the condition and capabilities of Irish land, from having discharged for many years the duties of Inspector of Estates to the Church Temporalities Commission. Numerous instances have been mentioned in which landlords wish to sell their estates through the Land Commission; but no one so far seems able to point out a case where the tenant has positively declared his intention to buy. This curious fact may be accounted for by the recent injunctions of the Land League, or it may be due to the unsettled state of parts of the country. Rents are still being collected by horse and foot. 'Boycotting' is going on every day to a greater and greater extent, and such circumstances are not favourable to the investment of capital in the soil. The first decisions of the Sub-Commissions are naturally awaited with the deepest anxiety. The Land League have selected their test cases for the purpose of exactly estimating the benefits conferred by the Act. From what has been already said, however, it is manifest that the Commission may not, after all, take these selected cases first. They are not bound to fall into the trap.



## *IRELAND UNDER THE LAND ACT.*

### CHAPTER II.

#### *THE POLICY OF THE LEAGUE.*

DUBLIN: Tuesday, September 27.

It was feared that there might be some further delay in issuing the Rules of the Land Court. This delay has not occurred, but if it had, it would have been in no degree due to the staff of the Commission. The forms of notice, application, and conveyance have been cut down and simplified into one sentence each; the Commissioners and Assistant Commissioners have mapped out their districts; and all over the country we hear of cases being ready for the Courts, and of evicted tenants clamouring impatiently for redress. Meanwhile certain itinerant orators of the Land League are making the most of every hour that is given them to discredit and discount the advantages of the new Code. Conventions, processions on a grand scale in the large towns, are supplemented by incessant local meetings in the provinces; and the lesson sought to be enforced on all these occasions is 'distrust of the Commission.' In view of the impending crisis the Government have resolved to delay matters no longer, and to allow the publication of the Rules. But the publication is provisional only, and the text is issued subject to the sanction of the Treasury. Much disloyal nonsense is uttered on the one side, provoking from the other even wilder nonsense about the necessity for dragooning the country into quietness. Mr. Forster walks restlessly to and fro in the Castle; while Mr. Parnell is drawn in state through the capital of Ireland, like a conqueror returning to his palace.<sup>1</sup> Impartial men seem to be

<sup>1</sup> Mr. Parnell's triumphant progress through Dublin had been made on Sunday, September 25.

of opinion that the Act is the only remedy for the distemper of the body politic; and that it cannot be administered too soon. One small difficulty is said to bar the way. The 50th Section requires the sanction of the inevitable 'Treasury' as to the amount of fees to be charged to suitors; and it is said that the *deputation of solicitors* which waited on the Commissioners on Saturday, although they had some trouble, were finally successful in persuading that body to deal with the ominous subject of 'fees' to the satisfaction of the profession. But many good fees must be lost and sacrificed for every day that elapses before the Commissions begin to sit; and it is to be hoped that one or other of 'my Lords' may have the wisdom to telegraph from London an immediate authorisation of the scale, after reading it, and before going through the customary etiquette of long discussions, conducted through the medium of Channel steamers. There is very little fear of the scale of fees being too high; for the obvious reason that nothing could give to the Land Leaguers a more plausible and even justifiable theme for denunciation.<sup>1</sup>

The Commissioners are in a position of great dignity, power, and responsibility; their hands can shape for good or for evil the future destinies of their country; and it is therefore pleasant to find that the utmost confidence is felt by both parties carrying on the rent controversy in their fairness and impartiality. I have heard this feeling expressed, with the utmost candour, even by eminent Land Leaguers, especially about Mr. Vernon, whom they regard as the 'strong man' on the Commission. But more impartiality will not be sufficient at the present crisis. The Commission, powerful as it is, has to reckon with a far more powerful body—the most united, the most skilfully governed, and perhaps the most representa-

<sup>1</sup> The delay of eight weeks which elapsed before the Act was put into operation had deplorable results. The tenants would have gone readily enough into Court at first, and a week ought to have been sufficient to prepare and issue a few necessary rules. Time was, however, given to the League to mature and even fully to execute their plans. While the Lords of the Treasury were haggling about fees, the fate of a nation was trembling in the balance.

tive organisation that Ireland has ever seen. No direct intimidation in the shape of demonstrations near the Sub-Commission Courts, or otherwise, will be resorted to, or indeed would recommend itself for a moment to the leaders of the League, or, again, would be permitted by the Government. But now, by men of all classes, landlords, leaders of the League, journalists, lawyers, and men of business, there is but one opinion expressed, which is this, that unless rents are reduced, on the average, by a very considerable amount, say 25 per cent., the Commission will be playing into the hands of Mr. Parnell during the coming winter.<sup>1</sup> If, on the other hand, the Commission, using the large discretion vested in them by the Act as arbitrators rather than as judges, and throwing conciliation into the wavering scale, should resolutely cut down rents everywhere, except, of course, where they are merely interest on capital expended by the landlord, then it is as confidently asserted that the Land League will soon become paralysed and disintegrated.

The recent addition to the title of the League is a clear sign that all this has been foreseen by the astute Executive of that Association. The National Convention, the torchlight procession, and the reiterated warnings against rushing into Court have not been resorted to without some sufficient end in view; and that is plainly the offering of terms to the Commission. The plan of action which has been finally decided upon appears to be the only one possible to the League in its present circumstances. A moment's reflection will show that the shrewd but poverty-stricken Irish farmers were not likely, in any case, to plunge as one man into the dangerous gulf of litigation. Each would pause, look ahead, and try to discover, first, the fate of a bolder neighbour. The League have accordingly appealed to this cautious spirit with the offer of test cases, to be fought at the expense of the League, by which the farmer can tell, without one penny of expense to

<sup>1</sup> The writer was severely reproved, in the columns of certain newspapers, for venturing to name so large a reduction. It was undoubtedly a bold statement, but it has been justified in the event; the average rate of reduction of rents at the end of the year being 25 per cent. all but a fraction.

himself, what would be the result of an application in his own case. It is obvious that if these cases be fairly selected, if they be average representative cases, there can be no objection whatever to the adoption of a course so convenient both to the litigants and to the Courts. If, on the contrary, the selected cases were those where common justice required that a good landlord should not be robbed of all return for the capital he had spent in real improvements servicable to the tenant, the League would succeed in seriously aggravating the present state of things. We have plenty of evidence, however, that independent tenants will bring their cases before the Court, regardless of what the League may enjoin upon the subject; so that there is little fear entertained that the Act will not, in a very short time, have a fair trial. Several such cases have been mentioned which are to be brought before the Court at its first sitting; and it is not improbable that one of the first rentals to be pared down will be that of property belonging to a City Company in county Londonderry.

The programme of the League, which has been imparted to me on the best possible authority, is plain enough. It must be remembered, in order to understand it, that the League, like other political associations, has a moderate and an advanced party. The former is the more numerous and respectable; the latter, contrary to the general rule, has the money, and is mostly domiciled on the other side of the Atlantic. The American subvention is essential to the work of improving the position of the Irish farmers and labourers; but the ardent Republican subscribers expect a little more for their dollars, and they must be humoured. This is the meaning of the Stars and Stripes being adopted as a conspicuous decoration at the Convention, and perhaps, also, of Mr. Sexton's confusing statement on Sunday night that 'the City of Dublin had broken loose from the Lion and the Unicorn.' Such rousing utterances are cabled weekly in homœopathic doses to America, where they serve to ensure the steady return of subscriptions. The moderate party, to which every Land Leaguer of any real influence openly or secretly belongs, are

believed to be, in their hearts, as hopeful of good results coming from the Act as Mr. Gladstone himself. Everybody knows that the leaders of the party in Parliament were equally surprised and delighted with the Bill at its first production; and the reasons of their present apparent hostility to it have been sufficiently indicated. They propose, then, to select all through the country a number of test cases of unfair renting, and to bring them immediately before the Sub-Commissions. These cases, it is stated, will be fair 'average' cases; not rack-rented cases, where any Court would be sure to reduce rents, but, as defined in one of the resolutions, the cases of 'tenants whose rents hitherto have not been considered cruel or exorbitant,' rents 'neither very high nor very low.' The tenants whose cases are selected will be represented at the cost of the League by the most able counsel that can be procured, and the recommendations upon the subject of preparing the tenants' evidence, contained in the pamphlet recently published by Mr. Healy, will be carefully attended to. That pamphlet, by the way, is maintained by the League authorities to be merely the embodiment of Mr. Healy's own views about the Act; against which view may be set his close and confidential relations with Mr. Parnell, and the fact that he is now upon an official mission in the South of Ireland for the selection of test cases. The League consider the tenants as being divided into two classes; first, those who are able to prove in each instance that the improvements to be set off against rent have been made by the tenant or his predecessors in title; secondly, those who are unable to offer such proof. It is said that the number in the first class is but small. At all events, the League cases are to be selected mainly, in the first instance, from the second class.

And here arises an important question. It is well known that the great body of the smaller cultivators keep no record of farming operations; while every penny spent by the landlord in improvements is entered in his agent's books at the time, and the books are preserved with care. The consequence of this state of things was that in litigation under the Act of 1870, a tenant claiming compensation for improvements conc-

rally brought loose, inexact, and imperfect evidence before the Court, and was at a great disadvantage as compared with the landlord, whose evidence was ready, precise, and complete. Under the Act of 1870, however, by Section 5, all improvements on the holding made within twenty years before the passing of the Act were to be presumed to have been made by the tenant. The new Act contains no such provision. It is matter of regret that it was not thought of at the time; but it was not possible, it is said, to think of everything. Mr. Parnell regards this as a very important flaw in the Act, restricting its benefits to a very small class of tenants; and thinks that the presumption of law will be, in the absence of legal evidence, that the improvements were made in every instance by the landlords. The matter is not, however, so very clear. The principle embodied, in the special case of fixtures, by the maxim *Quicquid solo plantatur, solo cedit*, is difficult of application to land, where the issue is a secondary or collateral one—namely, the fixing of a fair rent between two persons admitted to be part owners of the same plot. The Commissioners, who have the widest discretion, and who are to consider ‘all the circumstances of the case, holding, and district,’ may rule that in a district where tenants usually make the improvements, the presumption must be that the particular tenant before them also made those in question. Again the presumption will work both ways. If the Commissioners rule that the claimant, or plaintiff, whether landlord or tenant, must produce proof of improvements made by him, in order to have them considered in fixing the fair rent, then the very large number of landlords who, according to Mr. Parnell, will bring their tenants into Court, will be restrained by the rule equally with claimants who are tenants. It is just possible to contend that the point is settled by the recent Act. The last words of Section 57 are ‘The Landlord and Tenant (Ireland) Act, 1870, except in so far as the same is expressly altered or varied by this Act, or is inconsistent therewith, and this Act, shall be construed together as one Act.’ There would appear to be nothing inconsistent with the new legislation, so favourable to tenants, in the provision referred

to in the Act of 1870; and it may be that the Commissioners will take that view, and so remove one ground for the renewal of a dangerous agitation.

Those, then, are the two principal points to be established by the test cases; first, the rate of reduction of rents; secondly, the principles upon which evidence will be required and admitted. The League profess that they have no desire to select cases merely in order to found grievances upon them; that their desire is fairly to test the Act. Their attitude has, however, on behalf of the tenants, so far been effectually hostile, and the task of winning the immediate confidence of the tenantry has been thus rendered, to the Commission, one of sheer impossibility. It has been supposed that the Commissioners, in the exercise of their discretion, might postpone the Land League test cases to others considered more representative and urgent. But it is probable that no favour will be shown. Cases will be entered, heard, and decided strictly in order of date; and, as the Land Leaguers are using great diligence, they will probably in many districts head the list with their selected cases. Those will be taken all over the country, in numbers sufficient to give every tenant the knowledge of at least one case similar to his own, and in his own neighbourhood. If the Courts lower rents considerably and generally, the League will recommend tenants to effect arrangements with their landlords upon the basis of those decisions. But, in any event, no serious disturbances, such as have been feared in some quarters, are expected to occur during the winter; though there may be a renewal of agitation for a stronger Bill. As a rule, it is expected that the tenants will prefer the Sub-Commission to the Civil Bill Courts, the Judges of which have not in all instances the reputation of being popular in their districts.

One significant step has just been taken by the League, which may have very important results. Two tenants are to be appointed in each district, to assess the fair rent of the farms in it, in accordance with 'Healy's Clause,' and having strict regard to the necessity of 'a more improved

mode of living, better food, better clothing, and better houses.' The amount is to be registered by the local branch of the Land League, and no greater rent is to be paid. If this plan be universally adopted at once, it must pave the way for general dissatisfaction and disappointment with the decisions of the Commission, which has no authority whatever to take the aspirations of the tenantry after greater comfort, natural as they are, into consideration, in settling what is due to the landlord. It is, in fact, a most ingenious device for giving every tenant in Ireland the certainty of a special private grievance, apart from general grievances, in which he may sympathise to any extent, against the Land Commission and its Courts. He will come to regard the League-registered rent as the 'fair' one, and to compare it constantly with the inevitably higher sum fixed by the Sub-Commissions. After this, therefore, it may be assumed that even though the most intelligent Leaguers foresee, with other men, the ultimate success of this beneficent measure, they will leave no stone unturned in the endeavour to find means of thwarting, hindering, and baffling those who have to administer it. Another instance of this is the refusal of tenants to allow the hunting rights expressly reserved to the landlords by the Act; a policy which has been endorsed by the most influential leaders of the League. The effect can only be to exacerbate the sore relations between landlords and tenants, and to send hunting men to spend their money elsewhere than in the country which is most in need of it.

The attitude of the Government during all this turmoil of agitation and intrigue is purely passive. The impression I find prevailing is that a fatal mistake was made in not releasing all the suspects upon the passing of the Land Act. Now it would be too late to liberate them gracefully. The immediate release of all the prisoners, although it would be put down to weakness and alarm, and a desire to conciliate the League, would not, however, affect the present state of affairs in any appreciable degree. On the other hand, Mr. Forster seems to be perfectly aware that the wisest course is to keep the peace, and to leave the Land League to be indi-



rectly suppressed by the Land Commission. Any interference on his part at this stage would be eagerly welcomed by the League as a means of discrediting the Courts; and the more severe his measures, the better would it be for Mr. Parnell. He has, therefore, rightly or wrongly, decided to leave a clear field to the formidable organisation, which he would vainly hope has been mortally stricken, and must soon cease from troubling him. Notwithstanding the hostile criticisms to which he is subjected, he has one important qualification for his ungrateful office—he knows his own mind in the present crisis. He has a settled policy, and will insist on giving effect to it.

## CHAPTER III.

*THE POLICY OF THE LANDLORDS.*

DUBLIN : Saturday, October 1.

UNTIL the beginning of the present crisis the unfortunate owners of land in Ireland have stood up stoutly for their rights, or for the constantly diminishing residue of them. But it is strange that, at a moment like this, when the numerous forces of the League are working as one man, and making one supreme effort for their destruction, the doomed class should display but a nominal union and an uncertain purpose. Half a dozen of them, good men of business and devoted to their order, are, in fact, just now attempting to do the work that should be undertaken by hundreds. But this little band can accomplish little; and by the time that the bulk of their class are aroused to the performance of their duty, the new Courts will have decided the test cases; irrevocable precedents will have been finally set, and the fate of landlordism in Ireland virtually determined.

There are in existence several associations for the protection of the landlords' interests, the most important being the Property Defence Association, the Irish Land Committee, and the Emergency Committee. Of these, the first has been the most active, and its operations have been best understood and appreciated. It has undertaken, since its formation in December last, a variety of dangerous and troublesome business, including the service of writs, purchasing of holdings and stock at eviction sales, buying the goods of 'Boycotted' persons, supplying such persons with sturdy, fearless labourers when the old labourers have fled, affording legal and other assistance to the victims of the League, saving their crops, and

supplying them with the necessaries of life at market prices. These duties have been performed by a brave and capable body of officials; assisted by labourers (all, by the way, without exception, Protestants and Ulster men), who, taking their lives in their hands, have deserved and received high pay. The Association begins by considering applications for aid in council. If a case—purchasing at a sale, for instance—is taken up, secret arrangements are made with the police and soldiers; agents go down to the spot, are met at the railway station by their armed protectors, and return after the business is over, usually accompanied by a fierce and excited mob of local Boycotters. The expeditions are successful. Yet every possible obstacle is thrown in their way, as may well be expected, when a small body of armed strangers insult and challenge, by their proceedings, a whole countryside. The wonder is that so few lives have been lost, and so few bones broken, in these excursions. Surprise is the essence of the ‘Defence Association’ policy. On one occasion an emergency man arrived at his station before the little army that was marching to meet him, and had to walk a considerable distance alone, through a furious mob, before he found the soldiers. Immediately afterwards the mob quarrelled among themselves upon the question of who were to blame for his escape, and many heads were then and there broken over the discussion.

Such work has, of course, greatly increased at the present time, and heavy expenditure has been incurred. About a month ago some hundred and fifty noblemen and gentlemen who are members of the Association resolved to contribute one-half per cent. upon their valuations towards the expenses; but it is notorious, and a subject of taunt by the comparatively wealthy League, that the Association is now, financially speaking, in very low water. Whether English landlords contribute I know not, but perhaps they do not perceive their own interests to be immediately involved. This condition of impecuniosity becomes important just now, when the new Act is coming into operation. It is known that the League have already prepared some three hundred and fifty test cases,

selected in about equal proportions from every Irish county, with the view, doubtless, of occupying the cause lists for at least the opening month. Now, although both the Property Defence Association and the Land Committee profess to take up, in the sense of watching these test cases where it is advisable, and even to initiate their own, it is remarkable that no clear and systematic course has been as yet decided upon by either body. The Land Committee may be still resting, breathless, upon its Parliamentary and literary laurels. If, as is expected, the Register of the Commission be opened on Monday, it is easy to foresee what chance of entering test cases for speedy hearing remains to the landlords. Perhaps the explanation of this apparent backwardness is that few landlords will venture to take their tenants into Court, and that may be, for the present, good policy; but it would only apply to the initiation, and not to the defence, of applications under the Act. The coolest and most experienced landlords with whom one meets are of opinion that the most prudent attitude of their class at this juncture is one of full and ready compliance with the letter and spirit of the new legislation. If this be so, the wisest example has been set by the Carlow landlords, who have recently, under the persuasion of Mr. Bruen, M.P., declared their intention to abide loyally by the Act; and the least wise by Lord Menth, who writes, in somewhat jottish terms, flatly declining to assist his tenantry as heretofore. That letter has been of considerable service to the Leaguers, whilst if the Carlow declaration be re-echoed in the other counties the 'policy of exasperation' would be to some extent checked.

Many of the great landlords, however, appear to be comparatively indifferent. Such as have been good landlords think that the reduction of rents will be but small, and they would willingly lose more for the sake of peace and order. They will, it is expected, instruct their agents everywhere to make statutory agreements as to rent upon the basis of any cases first decided by the Court. But the smaller landlords, numbers of whom expect to be half ruined, are despondent, and apprehensive of the worst. The prevalent impression

expressed by them is that Mr. Parnell will succeed in making the Courts unpopular and odious, and so in defeating the Act. Then anarchy is to come; a rising in the winter; the sooner the better, that the League may be extinguished with it; and so forth. One gentleman of advanced age told me, with trembling voice, how he had offered his tenants large reductions in vain. 'And now,' he said, 'I go about among them, and they still touch their hats to me as before, but they dare not pay me. And I won't force them, for I don't wish to be driven away from the old place.' Another landlord confessed in so many words, that he had advised a threatened tenant to take out his League ticket. 'I was safe at night in my castle,' he observed, 'but the poor man had only his thin wooden door to protect him.' There is not to be found in Dublin a person who does not admit at least the possibility of an outbreak in the event of general dissatisfaction with the first decisions of the Courts; and many, as already stated, fully expect it. It is improbable, however, for several reasons.

The Land Leaguers will not, perhaps, have it all their own way before the Sub-Commissions, and may even find their daring scheme for blocking and choking the Courts frustrated, at the last moment, by a courageous exercise of discretion on the part of the Commissioners. This is, of course, pure speculation, but many persons think it may happen. Suppose, for instance, that a particular Sub-Commission finds on its list ten League cases, where only small reductions are possible; and at the bottom of the list a couple of rack-rented and evicted tenants. Public opinion among the shrewd Irish farmers would almost to a certainty acquiesce in the last two cases being taken first, and the efficiency of the Court's action would then be at once manifest. The only chance for the League is to take up every case everywhere, which is impossible. They will, nevertheless, attempt it. The other day they commenced negotiations with some rack-rented tenants who had been evicted, with a view, no doubt, to keep them back. But another and stronger reason for disregarding these fears of an outbreak

is to be found in the character and policy of the leader of the League. Personally, nothing has been more painful to Mr. Parnell than the loss of life, or the infliction of bodily suffering, in the course of this long agitation. And it is clear that the smallest disturbance which could be magnified into an insurrection would be seized upon as a reason for repressive measures, severe enough to prevent all agitation of any kind and for any object whatever, including, therefore, the intended agitation for that cherished project of every Irish leader—Ireland politically independent, and ruled by a Parliament in Dublin.

The landlords' fears for their rents in the ensuing litigation would also seem to be of an exaggerated character. Doubtless, it must be borne in mind that the Commissioners will sit as Arbitrators, and not as Judges. A Judge, having ascertained the state of the facts, is bound to apply a positive principle of law, unalterably pre-assigned to that state of facts. An Arbitrator, on the contrary, may act upon any principle he pleases, varying it according to the requirements of abstract justice, or, as the Act says, 'considering all the circumstances of the case, holding, and district.' Very often, therefore, a gentleman who is a landlord may find his income suddenly reduced, without, so far as he can tell, having deserved it by faults committed in that character. It may even be deemed right that the Commissioners should take the peace of the 'district' into consideration. But no sensible landlord can fear that where he has put his money into the land the returns will be handed over to his Land-Loaging tenant; and no reasonable tenant can expect that if his family have paid with ease the same rent for half a century he will have it reduced by half or a third.

The following view, therefore, which is that of many experienced persons of the landlord class, may be considered well founded. For some period, perhaps extending to months, the tenantry may be kept from resorting generally to the Courts, and the Commission itself rendered temporarily unpopular. But gradually the prominent, solid advantages of the Act will be perceived and grasped here and there over the

country; agreements will be largely entered into in order to secure like advantages; and the net result of the agitation to the Land Leaguers will be the discovery, during the working of the Act, of a few 'shocking examples' of landlordism, fit for the illustration of American lectures.

## CHAPTER IV.

*FEELING IN THE SOUTH.*

CORK: Monday, October 10.

MR. PARNELL has reason to be fairly satisfied with the results of his recent visits to Cork and Dungarvan. He is playing a game of skill, for large stakes, and against heavy odds; and it would be foolish to ignore what is the fact—that he is playing it with dexterity, coolness, and courage. The authority and the very existence of the League depend just now upon the conduct of its chiefs. They are in Ireland generally admitted to have suggested, if not dictated, to a powerful Ministry a great measure of redress and reform. But the very completeness of their success is an embarrassment and a hindrance to their further schemes; and an enterprising brotherhood of young Irishmen is beginning to fear that it has, after all, been outwitted by a crafty old Saxon. The one sore grievance of their countrymen has been suddenly done away with, before it had been properly utilised for what they regard as their country's further good. The honest farmers who have followed wearily for so many years in the wilderness the guidance of their chosen prophets can hardly understand why, now that they have been brought into actual sight of the promised land, and are gathering eagerly to take the brief plunge into litigation, from which they hope to emerge with the prize of tenant-right in their grasp, they should be sternly warned and driven back by the leaders of the League. Ominous murmurs of discontent have been heard, and it was therefore necessary at all hazards to preserve, for future conflict, the discipline of the host which Michael Davitt organised, and Mr. Parnell directs. It was for this reason that the



policy of presenting 'test cases' was decided upon; whereby, under the colour of an obvious convenience to the Courts, and a saving of expense to the suitors, the power of the former and the anxiety of the latter might be appropriated to the prestige and service of the League. Some number of independent applications, however, were found to have been formulated by farmers in various parts of the country, and it was feared that this selfish example might be largely followed. It was, moreover, whispered that, given a sufficient number of independent cases, the Commissioners might, in the interests of fair play, begin at the unconventional end of the cause list, and so win for themselves popularity in despite of the League. It was clear that something must be done, both to restrain the straggling ranks of the League, and to impress the Commissioners with a due sense of the undiminished power of that organisation; and, from this point of view, nothing could be more effective than demonstrations in great centres of population well affected to the League. For the bulk of the citizens of such towns as Dublin and Cork, being oppressed by indigent circumstances, and finding little diversion in the dull mental atmosphere of their obscure slums, may safely be trusted at all times to attend in full numbers, and with noisy manifestations of approval and delight, the progress of ten or twenty bands of music, escorting banners of gay device. They will readily make a procession an excuse for an extra holiday. But the simple farmers, summoned in from the country to hear an address, or to attend a Convention in the town chosen, will, without reflecting how the mob has been called together, as certainly be awed and convinced by the spectacle of so many admiring and applauding thousands—and the awe-stricken state of mind is known in Ireland to be conducive to obedience and tractability. There can be no question, however, about the sincerity and fervour of the national feeling which sways the vast crowd when assembled. It has been too much the habit to ignore, or pass lightly over, in our public prints, any manifestations of popular feeling in favour of Irish ideas. Nothing can be more unfortunate and dangerous for two peoples, one of

which holds the other in subjection, than that the real feelings and aspirations of the governed folk should be concealed from their rulers. Such demonstrations as those at Dublin and Cork were really historical events of the first importance. Her Majesty the Queen never had from her faithful subjects, in London itself, a reception distinguished by greater unanimity, reverence, and affection than were lavished on the great Irishman the other day. One could wish that Select Committees of both Houses had been snugly ensconced at the two bow windows of the Conservative Club at Cork.

At the Sunday meeting, for instance, it was impossible to avoid being deeply impressed by the enthusiasm that roared like a torrent through the streets of Cork. The English newspapers, confined to comparatively short telegraphic accounts of the day's proceedings, altogether failed to convey the significance of the scene. Five city Associations, twenty-five trades, and twenty-nine contingents from as many country villages, each with a silken banner handsomely worked, and nearly all with bands of music, marched past Mr. Parnell's carriage. This procession of trades occupied nearly an hour; during which time Mr. Parnell remained near the bridge, bowing to his passing admirers. The Corporation, with the exception of the Mayor, were present in state to receive him; three hundred yeomen, wearing green rosettes, rode after him; and from one end of the town to the other stood dense masses of spectators, brandishing green branches and wildly cheering. Every window was filled with ladies, many of them more than justifying the reputation of the Cork women for beauty, and all waving their handkerchiefs with as much zeal as that displayed by the mob below them. On the steps of one chapel, and in front of it, stood at least five hundred persons, and the total number of those present could not have been less than fifty or sixty thousand. The meeting in the Park was less numerously attended, for by the time it was held it was growing dark, and most of the country people had to catch the early trains, or to start on their long car-drives home.

The guests at the banquet amounted to about a hundred

and sixty, and the long corridors of the Victoria Hotel were lined on both sides with ladies and gentlemen as Mr. Parnell was conducted to his rooms. The crowd was very dense throughout the evening, but it was from first to last well behaved, good humoured, and orderly, and no policeman or soldier came out on duty during the entire day. The most striking feature in the proceedings was, however, the complete organisation and marshalling of so many different elements in the procession. Much of the warmth of welcome evinced by the populace was no doubt due to the presence of Father Sheehy, who had been providently invited to accompany Mr. Parnell. The Father, a man of slight figure, with a pinched face, ruddy of complexion, and with dark, piercing eyes, more than divided the honours with his leader; and his speech, full of fiery, passionate eloquence, received the loudest applause of all from the mob. His angry denunciations of English rule, however, like those of Mr. Redpath, were considered unwise and even deplorable by the great body of the middle-class Leaguers; and as for Mr. Redpath, whether he snuffed out sickly sentimentalism or vented bar-room bluster, the greater part of his audience remained coldly critical.

The reception at Dungarvan was of course on a smaller scale; but it was in its way as remarkable as that at Cork. The town contains about seven thousand inhabitants, but has little trade. One after another of its industries has died out; yet it remains a kind of market and store place for the surrounding agricultural districts of the county of Waterford. A Convention of delegates from the fifteen branches of the Land League in the county was summoned for the afternoon. In the morning Mr. Parnell arrived by train, and was conducted round the entire circuit of the streets, with cheering and rejoicing, as at Cork. About a hundred of what they call the League 'cavalry' rode in the procession, which finally halted in the market-place and gathered itself about a huge platform. About three thousand persons, consisting largely of agricultural labourers, stood there to hear the addresses. The sun shone brightly over the restless throng, falling conspicuously on the scarlet hoods of the rustic matrons who

had assembled to see what was going on, and revealing strips of green ribbon on the hats and throats and breasts of their husbands, sons, and brothers. It was remarkable that here, as at Cork and in the country districts, the peasantry carried no sticks. The Englishman's notion that no Irishman stirs abroad without his shillelagh would seem to be, in this part of Ireland at least, without foundation. The speeches made to the crowd were principally addressed to the all-absorbing labourers' question, and the hit of the occasion was made by Mr. Hoaly, in advising the tenants to pay their labourers increased wages, not out of their own pockets, but out of the landlords' rents. Loud cheers followed this modest suggestion, sent up not only by the farm workers present, but by their employers. This question of the labourers will give the Land League much trouble. On the one hand, the labourers are every day becoming more and more pressing in their demands, and if, as I hear is true, the Board of Works has decided not to lend money to occupiers, under Section 81, for building labourers' cottages, unless they are leaseholders, the matter may become immediately serious. The explanation of this report, however, probably is that the Board have required the tenants applying first to provide themselves with statutory terms. Now it is notorious that the Irish tenant-farmers are a close-fisted race, and that they have been accustomed too often to treat their labourers without consideration, and hardly with humanity. The League will therefore have much difficulty in persuading their tenant followers to give up land for the labourer, receiving from him no more than the rent paid by themselves for it. The labourers who, including those possessed of small holdings, probably amount to about five hundred thousand, have already begun to combine; and a Labourers' League will probably be shortly established.

After the open-air meeting came the Convention of delegates. Here various cases were stated which the local branches wished chosen as test cases. In one instance, the representative of a branch was soundly rated by Mr. Parnell before the meeting for having demanded the costs incurred by

a tenant member who had paid his rent at the last moment, to escape eviction. The President said that the tenant 'might as well have yielded first as last,' and refused the application with some show of indignation. Here, as in many parts of the two counties of Cork and Waterford, was remarked the great desire that each tenant had to get his own case made a test case, and thus to enjoy the glory and excitement of a lawsuit without risk of expense. Instant obedience, however, is shown by members of the League to the orders of their superiors on this or any other point which has to be settled. In the evening there was a banquet at the Town Hall; when, as no labourers were present, and many shopkeepers were, Mr. Parnell confined himself chiefly to stating the great things which the League was to do for Irish trade. Needless to say, this part of his address was warmly applauded, as was also a reference to Michael Davitt. It was noticeable here, as all over the country, that whereas any mention of the 'suspects' generally was little attended to, the name of Michael Davitt was fervently applauded. No one of the provincial Leaguers and tenants to be met with in the South ever refers to the incarceration of the 'suspects' as a grievance; and the reason, perhaps, is that it is known that the prisoners, most of them taken from a humble rank in life, are well nourished and looked after. But there can be no doubt about the keen and general interest felt by the Munster men in Davitt's fate.<sup>1</sup>

The decorations at Dungarvan were numerous and elegant. Flags ran over the ships, drooped from the windows, and were suspended across every street; evergreens covered the walls. At night every house, except five, was illuminated, the average number of candles to each house being about fifty, costing a penny a-piece. With respect to the five, a priest at the dinner expressed his surprise that the occupiers of them had not been Boycotted; but this sentiment was received with sounds of disapproval from many of the guests.

<sup>1</sup> Mr. O'Donnell, M.P., afterwards delivered an oration of remarkable eloquence, in which he passionately recalled the fabled glories of the as yet unconquered Irish race, while Mr. Parnell sat coldly smiling.

The police, however, who at Dungarvan are on excellent terms with the people, kept near the unsympathetic and unilluminated windows until the crowd dispersed. This did not happen until after much practice by the local band, before a large audience, following the musicians through the streets. The Land League owe very much to the influence of their musicians. Whenever a new branch is to be formed, the first thing done is to provide it with a large drum; and a powerful member is forthwith instructed in the use of it. Other instruments are added at intervals as the funds will allow; and thus, by means of brass and vellum, a great quantity of patriotic frenzy finds harmless vent and expression.

## CHAPTER V.

## THE 'TEST CASES.'

CORK: Tuesday, October 11.

So much attention is being paid to the course adopted by the Land League of selecting test cases to go before the Commission, and so much has the public mind become upon the subject, that the facts relating to a few of these cases cannot be altogether without interest for English readers. One evening last week, Mr. Hoaly, the Law Adviser of the League, set out from Cork for the purpose of investigating the statements put forward by the branches of the League on the north-eastern boundary of the county, and I accompanied him. The third member of the party was a young Frenchman, travelling in Ireland for his own improvement, and meditating the instruction of his countrymen in the pages of a well-known Review. The district we had to visit was the notorious Galtee estate, near Mitchelstown; and to reach it we took tickets on the first evening for Formoy, the railway town nearest to our destination, intending to strike northwards by car on the following morning. As we waited at Mallow, on the way, we little thought that at the distance of a few miles an armed band were roaming about, holding pistols to women's breasts, threatening all who should venture to pay rent, and in the end wantonly murdering, in the darkness, without provocation or offence of any kind, an honest young fellow, the son of one of its own leaders. This atrocity, which has excited the utmost disgust and indignation in Cork, could not be accounted for by the hostility of the people to the opponents of the League. The victim, and most of his assailants, had been present rejoicing, side by

side, at Mr. Parnell's triumphant entry into Cork on the previous day; and the deep impression produced by the demonstration of Sunday has been already, to a considerable extent, neutralised by this senseless crime. Unconscious of all this, we were carried on to Fermoy, a pretty little town of ten thousand inhabitants, and the headquarters of two or three regiments. In a very short time the news of Mr. Healy's arrival had spread. Although most of the townspeople had gone to bed, a large contingent brought tar-barrels before the hotel, and a fierce bonfire soon blazed, ten or twelve feet high; round about which, to the great delight of the young Frenchman, the crowd danced, raising shrill whoops and hurrahs. Mr. Healy discreetly slipped away to business, thus avoiding a speech from the window, and after an hour or two the crowd quietly dispersed.

Next morning, soon after nine, we ascended a car, and drove away along the Mitchelstown road. It was the finest day of an Indian summer, and the bright morning rays brought out the full beauty of a succession of charming landscapes, changing with each turn in the road, but all overtopped by the purple masses of the distant Galtee Mountains. At Mitchelstown we were joined by the local secretary of the Land League, and by Mr. Casey, the famous 'Galtee Boy,' whose prosecution in 1877 for libel, at the suit of Mr. Bridge, the agent of Mr. Buckley, owner of the Galtee estate, will be remembered. Mr. Bridge's life had been twice attempted, and Mr. Casey boldly attributed these crimes to the agent's alleged harshness towards the tenants. Mr. Casey, who was defended with great eloquence by the late Mr. Butt, was acquitted on two counts of the information, and on the remaining charges the jury, unable to agree, were discharged. The first visit we paid was to a tenant, said to be the most prosperous on this estate, upon which the eye of the irrepressible Casey, in spite of all the little difficulties he has experienced at the hands of the law, still rests vigilantly. I will call the tenant A. B., as it would not be fair to mention the names of those who gave me information. He was described as a man of excellent character. He had



succeeded in getting for wife a Limerick woman, with a 'fortune,' which fortune was bestowed forthwith upon one of his brothers, to start him also in a farm. Another brother had gone to America, and sent home regularly something towards the rent. A third brother lived with A. B. as a labourer, and our French companion was greatly shocked and concerned when he was informed that this third brother was condemned, by local custom and opinion, to perpetual celibacy; there being no 'fortune' left wherewith to start him in life also.<sup>1</sup> A. B. and his brother were framed on a great scale, like most of the Tipperary men. They both stood well over six feet high, and had handsome faces and clear blue eyes. But, in common with all the small tenants in this neighbourhood, at the base of the Galtees and on their barren slopes, they were gaunt and fleshless; their cheeks were pale and their aspect sullen. The wife was a buxom, cheerful, healthy-looking woman, with four children running after her everywhere. It was the potato harvest, and two men, hired to help, were seated with the family at the kitchen table, on which was piled a huge heap of smoking 'champions,' with two pitchers of butter-milk. A. B.'s great-grandfather had reclaimed his thirty-seven acres, with the help of his sons, from the heath, and substantial buildings had been erected at different times by his descendants. The Government valuation for the farm thus laid out was 19*l.*, but the old rent of 13*l.* continued to be paid until a former agent raised it to 20*l.* After some time another agent required 31*l.*, but upon A. B.'s earnest remonstrance consented to take 27*l.*, the present rent, on condition that the tenant accepted a long lease. Thus A. B. would be paying about 42 per cent. over the valuation for improvements made by himself and his 'predecessors in title.' The land was devoted partly to growing potatoes, and partly to pasture. After hearing thus far, Mr. Healy decided not to take this as a test case, as the rent was more than 20 per cent. above the

<sup>1</sup> Mr. Casey has lately sent me a letter in which he states that this 'third brother,' impressed by the contemplation of the fate foretold for him, has vowed shortly to be wed; and, further, to advertise his wedding in the *Standard*.

valuation ; but he took pains to explain to the anxious farmer that, whether the case was made a test one or not, the rent was certain to be lowered.

I may here explain that the League profess not to object to cases of high rack-renting being taken into Court. But they contend that there is no need for them to take up and bring forward such cases, while large numbers of tenants, paying but little over Griffith's valuation, can, in their opinion, extract hardly enough to pay the rent, living, moreover, in such a way that the Court, considering their pitiful case, ought to lower the rents much below that valuation. They divide the different cases of hardship into five classes ; and it is proposed to bring before the Commission cases from each class, rigidly excluding those, like that of A. B., which I have now described, where the rent is very much over the valuation. The divisions into which the 'test cases' fall are :—

1. Cases where the rent is not more than 20 per cent. over the valuation, but is yet thought to be too hard upon the tenant.

2. Cases of pure reclamation by tenants, without special reference to the amount of rent, but where a claim is made in order to establish principles of decision in such cases.

3. Cases where what are considered unjust leases have been forced upon tenants from year to year since 1870, proceeding under Section 21 of the Act of 1881.

4. Cases where tenants have been evicted, for non-payment of rent, since Feb. 22, 1881.

5. Cases of evicted tenants whose holdings were sold and conveyed before the passing of the Act.

In order to obtain a case coming under one of these classes we climbed up to the dwellings of some tenants higher up the mountain-side. The huts there are perhaps the most repulsive shelters for humanity that have survived the barbarous age in Europe. The floors are simply damp earth, and through holes in the battered thatch crawl starving cats in the vain quest for food. The people subsist on potatoes and Indian meal, with sometimes a little buttermilk ; meat

they eat once a year, as a Christmas dainty. C. D. (again for obvious reasons the actual name is withheld), one of these tenants, held five acres, at a rental of three pounds. He had a face even paler than that of A. B., and his eyes, deep-sunk in swarthy orbits, glared fearfully upon us. It is remarkable, and it suggests curious reflections, that the women and children are not white and emaciated, like the men. At C. D.'s door, for example, lounged two of his ten children, handsome, blushing girls, with bare feet, each the picture of health and modesty. The explanation probably is, that the poor starchy food which is sufficient to nourish the comparatively inactive bodies of the women and children, cannot make up for the muscular waste in the systems of hard-working male labourers. C. D. and his father had won their little patch from the furzy heath that ran by the side of it, on which huge stones still lay thickly strewn. They had enclosed, and dug, and carried up baskets of earth upon their backs to make soil upon the barren rocks, until at last the little shanty was erected, the simple furniture procured, and the family established. The son felt keenly that he should be required to pay a tax in the shape of raised rent upon the results of their united energy and enterprise; and he compelled to maintain a very bad road which was out beside his plot. But his rent also was much more than 20 per cent. above the valuation, and it was not therefore necessary that his should be made a test case.

We now sped along the road to Ballyboreen, and after half an hour's drive pulled up at the door of the Rev. Dr. Dolany, the parish priest. This gentleman has under his care, in his immense parish, the majority of the poor tenants on the Galtee estate; and he told us that he did not know of a tenant in the neighbourhood who was both a tenant from year to year and did not pay more than 20 per cent. over the valuation—so again our mission in selecting a 'test case' was balked. While waiting at the Doctor's to enjoy some light refreshment the local band assembled, and executed an occasional irregular strain of welcome to Mr. Healy, half drowned by the cheering of the mob. These ready musical honours

are proffered in Ireland to distinguished visitors, where Englishmen would think a solemn address and reply the correct ceremony. We drove, attended by the musicians, to the house of a widow woman hard by, who farmed about fifty acres, part under lease, part as tenant from year to year, and who was said to be struggling hard with a rent very much over Griffith's estimate. But the widow was unable to afford any exact information. She could not tell what proportion of the valuation applied to the leased land, and what to the remainder. All she knew was that her husband and his father had gradually improved the land from barrenness into comparative fertility; and she could hardly understand what Mr. Healy meant by asking about the required proofs. Were there any old persons employed by her or living in the neighbourhood who could testify to the tenant having made the improvements, and erected the buildings which were visible around us? She did not remember any. 'No,' said a bystander, gravely, 'the people here all die early.' In answer to another question, it appeared that the small shopkeepers, who sold nails, and hinges, and other apparatus used in building outhouses, pigsties, &c., did not keep books. The widow had no written record of these alleged improvements having been made, and it was obvious that if the Sub-Commission should require her strictly to prove them, she would lose the case. We had therefore to turn away again. After some further search, it being clear that no cases of the desired description could be here obtained, it was finally decided by the emissary of the League to take two of alleged rack-renting, and prepare them for entry. I would call particular attention to this fact, because, in confirmation of what has been previously stated, it shows that the League cannot, if they would, prevent cases of rack-renting from coming before the Commission, or hinder the administrators of the Act from establishing the remedial and beneficial character of the new legislation. Mr. Healy might have been desirous to keep those two cases out of Court, or not; but my point is that he could not help himself. Round about him stood the anxious friends of these unfortunate tenants, and the intelligent officers of the local branches of the League.

If cases were not taken, the tenants would continue to suffer ; and they knew they need not continue to suffer, for every man in the district had bought a copy of the circular sent out by the Commission, explaining the benefits conferred by the Act on the husbandmen of Ireland. Mr. Healy, therefore, yielded to the inevitable ; and here, accordingly, as in other parts of Ireland, the Act will, after all, have the fair trial claimed for it.

I am rapidly coming to the conclusion that the leaders of the League will find that they have carried this doctrine of testing the Act too far. Time after time I have seen a sharp farmer's face cloud over doubtfully when he has been told that he should abstain from going into Court until test cases, not affecting in any way the principle upon which his own must be decided, have been heard. Such a man says in his heart, 'How can it be better for any other tenant that I should go on paying a high rent when I need not do so ?' The League, it is true, advise him, further, to keep the rent in his pocket until the test cases are decided. Now, it is certainly improbable that the farmer can lose much in any event. Whether he pay down or wait until he be forced to pay, there is no fear that the Land Act will be repealed. But the final determination of the test cases would take two or three months or more. And is it not possible that if, in the meantime, rents be withheld, and such ruffians as the murderers of Leary infest the country, the cry for coercion, which even now swells louder day by day, may force the Government to suppress the League—in other words, to declare all meetings and combinations for carrying out the programme of the League illegal, and to prevent them ?<sup>1</sup> If Mr. Parnell and his coadjutors should succeed in bringing about such relations between landlords and tenants as would compel the Executive to stamp out the League, it needs but little observation of the agricultural classes to discover that, after a little sulkingness, every rack-rented farmer in Ireland would accept relief as provided by the Land Act. It may therefore be

<sup>1</sup> Mr. Parnell was arrested two days after this was written.

taken for granted that the power of the League is already proved to be inadequate to the task of defeating the Act.

The following are the particulars of a test case selected by Mr. Healy in my presence; and I give it as an example of a long series of improvements made by the tenant and his 'predecessors in title,' and where the rent is not more than 20 per cent. over Griffith's valuation:—

	£	s.	d.
80 perches of fences built, at 4s. per perch . . . . .	16	0	0
260 perches of fences levelled, at 2s. per perch . . . . .	26	0	0
13 acres drained and reclaimed, at 12 <i>l.</i> per acre . . . . .	156	0	0
10 acres of waste reclaimed and fenced, at 5 <i>l.</i> per acre . . . . .	50	0	0
50 perches of river filled in, at 10s. per perch . . . . .	25	0	0
50 perches of new river-bed opened, at 2s. per perch . . . . .	5	0	0
60 loads of sand every year for 50 years, at 2s. per load . . . . .	300	0	0
Dwelling-house improved . . . . .	40	0	0
Outhouses built . . . . .	80	0	0
Work on labourers' houses . . . . .	12	0	0
	<hr/>		
	£710	0	0
Allowed by Landlord . . . . .	46	0	0
	<hr/>		
	£664	0	0

The farm in question is situate in the County of Cork, but I have promised to give no further particulars whereby the spot may be identified. After some conversation with the claimant, however, I came to the conclusion that he was a shrewd and cautious man. His statement was that his grandfather had taken a lease of the farm, which consisted of 58½ acres, at a rent of 30*l.* 16s. 10*d.* An unofficial valuation made it worth 22*l.*, but Griffith's valuation was 26*l.* 5s. A great proportion of the holding was stubborn waste, flooded in parts; but it was provided with a dwelling-house of an inferior description. As soon as the lease was signed reclamation was undertaken, and at the present time the farm pays fairly well. The improvements effected were mainly building, draining, fencing, the application of sand, the diverting of a small river, &c. The tenant, it will be seen, asserts that these improvements, extending over fifty years, have cost no less a sum than 664*l.* after allowing for sums,

amounting to 46l., contributed during that period by his landlord. The value of the improvements, however, has obviously been greatly exaggerated. The statement will doubtless be cut down and remodelled when it gets into the hands of the solicitor appointed by the League. I may observe, with respect to the fourth class of test cases determined upon by the League—namely, of persons evicted for non-payment of rent since February 22 last, and whose period of redemption had not theretofore expired when the Act came into operation on August 22 last—that the Commission have resolved to give full effect to Section 60 of the Act, making an application to them at their first sitting equivalent to an application made on the day when the Act came into force. The Commission itself intends to have one long sitting of a week in Dublin, nominally continuous, and before any of the Sub-Commissions sit, in order that no tenant of the class alluded to may suffer.

## CHAPTER VI.

*MR. PARNELL IN PRISON.*

DUBLIN: Saturday, October 15.

ON Thursday morning, the 13th, at Morrison's Hotel, in Dawson Street, Mr. Parnell was arrested, taken away and safely lodged in Kilmainham Prison, before the citizens of Dublin were fairly awake. There was no disturbance in the streets, for no one knew why the four-wheel cabs waited so long before the hotel; and it was not until some constables added themselves to the procession that suspicion began to be excited. The captive himself strictly enjoined secrecy upon the servants of the hotel, as if he had known of the bodies of troops held ready to march, and of the cannon in the Castle-yard.

I had an interview with Mr. Parnell in Kilmainham Gaol yesterday, but was prevented from sending by wire an account of my visit owing to the interruption of the telegraphic service by the storm. I drove early to the famous prison, which is a large castellated pile of grey stone, standing well out of the city, some two miles to the west. Once out of the streets, there were not to be met a dozen persons, exclusive of bare-legged little boys, during the drive. I had to wait in the guard-room for a few minutes until some visitors already admitted had been dismissed, and these presently appeared in the persons of Mr. Arthur O'Connor, M.P., and Mr. O'Kelly, M.P., the face of the latter wearing an expression of unwonted concern. In all probability their quick-witted chief had warned them that they would be immediately arrested. Mr. O'Kelly was, in fact, brought back to Kilmainham, a few hours later, as a prisoner; but Mr. O'Connor escaped, by



Belfast, to England. Some delay ensued, there being it seems a rule limiting the number of visitors to two daily, but at Mr. Parnell's request an exception was made in my favour, and it is possible therefore to record some views and opinions of the imprisoned leader of the League at this crisis which may be worthy of attention. A good-humoured warder, bearing his keys of office, and an anxious-looking official looking like a secretary or under-secretary of the Governor, were present during the interview, but behaved with the fullest respect and consideration towards the prisoner. Mr. Parnell was deadly pale. He was, as usual, carefully dressed, and wore a small round smoking-cap. He appeared to be cheerful, and throughout the interview abstained from any expression of hostility or resentment against the Government, or any member of it. What struck me most in his manner was an appearance of quiet satisfaction, sometimes passing into a triumphant smile, which was unmistakably natural and real.

The room into which he was removed yesterday is that lately occupied by Father Sheehy, and is the warmest and largest at the Governor's disposal. The ladies of the Land League and others have filled it with books and bright-coloured furniture, so that there is nothing to suggest the gloomy cell and clanking chains in which the American illustrated journals were pleased to represent the fragile form of the imprisoned priest. A bright fire was burning in the old-fashioned fireplace, and before this we sat. Mr. Parnell said that he had expected, ever since reading the Premier's speech at Leeds, to be arrested, and that he had received certain intelligence of the determination of the Cabinet on Wednesday evening last. He had not attempted to evade capture, as he was aware that it would have been almost impossible. I mentioned to him the excitement of the old retainers at Morrison's Hotel, who knew his people well, and some of whom had carried him into the hotel when a boy in their arms. 'Yes,' he replied, smiling, 'somebody proposed that I should get out of the back window, but I declined, as I knew the approaches were watched.' He said that Superintendent Mallon had behaved with all possible politeness. Although

troubled with a slight cold, he had in no way suffered from his imprisonment so far, but he anticipated that any long-continued imprisonment must have a very prejudicial effect upon one of his lively constitution and active habits. He thought it probable that he would be kept prisoner for some considerable period. The arrest, or, as he preferred to describe it, the return to the policy of coercion, was, he thought, due to the misinformation of the Government, who were under the impression that the League would prevent tenants with really good cases from going before the Court. On the contrary, he said, the League had taken up great numbers of cases of every description all over the country, and his only object had been to prevent the farmers from indulging in needless litigation when, by watching the decision of similar test cases, they would be able to judge of the views of the Court about their own cases, and make agreements accordingly. He affirmed that he had not committed the offences named in the warrants, and denied the legality of those documents.

'I defy them,' exclaimed Mr. Parnell, 'to show one speech of mine made within the Dublin district, the district named in the warrants, in which I have given such advice to tenants.<sup>1</sup> I believe that Mr. Gladstone, by returning to this coercion policy, has seriously injured the prospects of his Act. The tenants will not after this go into Court so freely as before. And if they go, there are, after all, great defects in the Act. We have selected cases of rack-rented tenants—for instance, we have taken one case from the Galtee estate—but we are very apprehensive about the way in which the Commissions will administer the Act, under Healy's Clause, in the cases of tenants whose reclamations have been effected during the last thirty years or so. Again, I do not believe that more than about ten thousand of the Irish leaseholders will receive any benefit, and in short, perhaps, one-half of the tenant-farmers of Ireland have nothing to expect from the Act. I don't know for certain who will be the leader of the party now, but I should think it will be John Dillon. It is possible that they

<sup>1</sup> Mr. Parnell was shortly afterwards served with a second warrant charging him with being reasonably suspected of treasonable practices.

may arrest him, however, as they have arrested Mr. Quinn, the Assistant Secretary of the League, this morning, and intend, I am told, to arrest Sexton and others. Dillon is more advanced than I am, and I have not hitherto held his views in full, but if the Government should suppress the League, as is rumoured, I should in that case feel it my duty to advise the farmers to pay no rent whatever. I told you a week before I was arrested that even if the Government seized me there would be no fear of disturbances, and I am still of that opinion. One effect of the course taken by the Government will be that every Irish voter in England will vote against them for the future. If I am released in time to attend the next Session of Parliament I shall support, and even, if possible, extend and improve, the Bill lately determined upon by the Farmers' Alliance for England. But, in the meantime, I shall practise in gaol carpentering, or some occupation of that kind. I was always rather inclined to mechanical operations for relaxation. Thanks to the Ladies' Land League, I am, as you see, well supplied with books; but I have not as yet come to the determination to write any work.'

Here the warder announced that it was time to leave. At the same moment a janitor entered with a snow-white tablecloth for dinner, and I took leave of Mr. Parnell.<sup>1</sup>

<sup>1</sup> It was not until after the publication of this letter that orders were given to refuse newspaper correspondents permission to see Mr. Parnell. I should mention that before speaking to Mr. Parnell upon political subjects, I distinctly asked if there was any rule against conversing upon them, and the prison officials made no reply.

## CHAPTER VII.

*THE ARREARS.*

DUBLIN : Tuesday, October 18.

NIGHT after night, of late, the Dublin mob has rioted in the principal streets, assaulting the police, throwing stones, shouting, and otherwise misbehaving themselves, until long after midnight. By way of showing their displeasure at the arrest of the League leaders they have smashed thousands of pounds worth of glass in and about Sackville Street. The police themselves were very violent and careless in the repression of these disturbances. Many of the rioters, however, were mere youths, and the crowds generally struck me, when I mingled with them, as rather merry than angry.

So bold and significant a step as the arrest of the chiefs of the Land League movement would hardly have been resolved upon at the present moment but for some overwhelming necessity, clearly apparent to the Government. The time chosen seemed, at first sight, strangely inopportune. The Land Commission had published a notice, in simple and inviting terms, pointing out the advantages of the Act. This notice, which has been obtained by nearly every one of the tenant-farmers, was virtually a refutation of the attacks made by the Land League orators upon the Act, and it had done much to expose and defeat the League policy, in so far as it was hostile to the new Courts. Sub-Commissions had been appointed, and assigned their districts; and the Rules and forms—which had been settled, thanks to the vigilance of Mr. Fottrell, the Land Court Solicitor, so as to be understood easily, and with difficulty abused—had been widely circulated.

The Commission had in several instances, to which I have alluded in former letters, shown an anxious desire to consult the convenience, and even to court the confidence, of its intending suitors; and the continuous sitting of a week or more, devised for the purpose of giving the most distant and belated litigant an opportunity of making urgent application, under Section 60 of the Act, at the first sitting of the Court, had been fixed to begin on Thursday next. Numbers of notices from all parts of the country had been sent in, and the flow of business doubled daily in volume. Then, just a week before the sitting, Mr. Parnell, the leader of the class for whose benefit the Court was constituted, was suddenly hurried into confinement, along with the more prominent of his lieutenants, the reason alleged for his arrest being the attitude he had taken up with respect to the Commission. In other words, the Government found it necessary to protect at its very inception the action of the Court. I am quite aware that large numbers of Irishmen, including, by the way, a few of those who have swelled Mr. Parnell's recent triumphal processions, are deeply thankful for these arrests. But with far greater approach to unanimity is the opinion expressed by the friends of the landlords, that the Government should have displayed at least an earnest of all this vigour in good time.

If the new law, say they—that remarkable and unprecedented device for conciliating a discontented, subject race—was really in serious danger from the operations of the League, how criminal was the neglect that suffered those operations so long to go on unimpeded! Where was the statesmanship, or foresight, or common sense in looking frowningly on while Mr. Parnell busily organised the creation of Michael Davitt, week by week, and month by month, to such perfection that, with him or without him, in public or in secret, it is now able to work out his purpose as mechanically as if it were a wound-up clock? The Convention had been held, its resolutions, by countless speeches, and on all possible occasions, had been enforced on the popular mind; all discoverable objections to the Act had been urged, and the last

'test case' had been selected. Then, and not till then, when the work of the Land League chiefs was done, when the country, in spite of them, nauseated with so much excitement, was turning towards the Court, and Mr. Parnell himself would shortly have become *de trop*, his popularity is revived, his importance confessed, and his power for the future absolutely ensured by his imprisonment. Now, these complaints, which are very generally made here, are not a little unreasonable. I have discussed the arrests with very many persons, from landlords of the highest rank downwards, and heard all the reasons suggested for the unexpected onslaught of the Government upon the League. The general belief seems to be that English public opinion had at last roused the Ministry. Another prevalent opinion is that Mr. Gladstone really feared that tenants would be in large numbers forcibly deterred from going into the Courts. The notion that the Premier was actuated by feelings of chagrin entertained personally towards Mr. Parnell, arising out of a supposed defeat in argument, or that the Government were desirous of bringing about some disturbance, as an excuse for giving the populace a severe lesson, is entertained by hardly any person worth consideration.

The real explanation of the change in the Irish policy of the Cabinet—for it is a change—would seem to be the following:—So long as the League upheld Griffith's valuation—in other words, from 25 to 30 per cent. off existing rentals—to be a measure of fair rents, there appeared to be no great danger in allowing it full play and development. It was, and still is, believed that in great areas in the south, west, and north-west, rents would be reduced by the Land Commission, on an average, by 25 per cent. For a time the Ministry believed that the Land Commission would eventually destroy the League. But Mr. Parnell and his supporters, face to face with the prospect of seeing their organisation gradually dissolved, raised a new cry, and proclaimed new grievances. Their followers were enjoined to pay only 'just' rents—that is, according to the definition finally elaborated, the original yearly value of the soil before it was disturbed by human agony, less such an amount as would leave the culti-

vators enough to secure improved dwellings, clothes, and food. In the meantime, 'Boycotting' was developed into a system of National Police, whereby half a dozen individuals, sitting at a table in Sackville Street, could direct the smallest actions of the agricultural population, and even control the trade and markets of small towns. Murders in a few cases, and numberless outrages, committed by the ruffianly and unmanageable element in the agitation, cowed the smaller landlords, or drove them away. Still the Government, though goaded on all sides, hesitated. But September 29 came, when a large proportion of the half-year's rent was due. And it was at once apparent that the tenants in most cases had received directions to hold the money, and 'starve out the landlords.' At the same time, it was established that the League had worked—but, as I have had occasion formerly to show, without success—to keep the tenants with cases of real hardship from going into Court. It was therefore determined—partly as a warning to the tenants to pay up, partly as a means of clearing the avenue to justice—to arrest the leaders of the League. How far that step was politic time will show. Some landlords are disposed to regard the action of Mr. Gladstone as a parting blow at their order. 'He has irritated the people,' say they, 'just as our rent became due, and we shall not now receive one-tenth of it.'

The peace of the country is involved in dealing with this question of arrears; and it is plain that upon the action of the smaller landlords with regard to it will depend the safety of the lives and property of numbers throughout the winter. There can be no mistake about the attitude of the League. The Manifesto published to-day, at what may perhaps be the last public meeting of the executive of that body, commands the members to pay no rent while their leaders remain in prison. This Manifesto has, strange to say, been actually signed by Michael Davitt and Mr. Parnell, and was probably prepared long since in anticipation of the present condition of affairs.<sup>1</sup> Its issue is undoubtedly the most serious and

<sup>1</sup> It is widely reported in Dublin that Dr. Kenny, a popular and amiable physician, who has, whenever necessary, freely exposed his life in

lamentable proceeding of the Land League since its establishment; and, taken in conjunction with the attitude of the Government and of the landlords, may be regarded as dooming many thousands of persons to severe suffering, and ensuring the wholesale destruction of property in a country already poor enough.

Now, from careful investigations, just concluded, I think that it may be considered as certain that the landlords will, in a large number of cases, immediately attempt to enforce their legal rights. Besides the encouragement afforded to them by the arrest of the chief Leaguers, it must be remembered that many of them are suffering from actual want, and are being ruthlessly pressed by mortgagees and other creditors. Ever since the bad harvest of 1877, abatements of rent have been largely allowed to tenants; whilst, owing to the agitation, the money payable in the spring of the present year in respect of the half-year's rent due at the preceding Michaelmas was to a great extent kept back. Taking the agricultural rental of Ireland at about fourteen million pounds, the half-year's rent expected last spring would have been seven millions, but of this not more than half was probably paid. To the remaining three million five hundred thousand pounds still unpaid must now be added seven millions due in September, and these sums, with fourteen millions sacrificed as abatements, and one million for other arrears, show that the Irish landlords have within the last four years virtually lost a sum of twenty-five million five hundred thousand pounds. To the rich among them, and to such as have property other than Irish land, the loss may have been merely inconvenient. Another, but very small class, who bought land as an investment, and mercilessly racked the tenants, deserve no consideration. But there is a large number of owners of land, not rack-renters, whose condition is truly pitiable. Numerous

the service of the poor, was arrested upon suspicion of having obtained his patient, Mr. Parnell's, signature to the Manifesto. There is reason to believe that Mr. Parnell's signature was obtained in a much less romantic way, and that Dr. Kenny's political position was the sole reason for his arrest.



cases have been brought to our notice during the last few days where landlords, a few years since in affluent circumstances, are now almost beggared. Sometimes the sufferer is an elderly lady, with a life estate; sometimes a mortgagor, compelled to go on paying interest on the debt, or a leaseholder, forced to pay his superior landlord the rent agreed upon to the last penny. One hears of a gentleman in a western county, with a nominal rental of 2,000*l.*, subsisting on the produce of his poultry-yard; of another receiving 40*l.* out of 1,000*l.* due. A lady living in Dublin, with a jointure of a fair amount, is obliged to the kindness of a relative for bare necessities; and two ladies, also residing here, entitled to some 400*l.* a year between them, are existing practically on the charity of their friends. Another numerous class of landlords have pulled through with difficulty, hoping that at the establishment of the Commission the tenants would pay up at least a half-year's rent. Their disappointment at the refusal of the tenants to pay anything is intense, and they mean resolutely to put the law in motion. It is now Vacation, but on November 2 next, when the Courts sit, application will be made for a great number of writs for arrears of rent, and the various stages of litigation up to the final eviction traversed with the aid of soldiers and police. The larger landlords are at last beginning to subscribe freely towards expenses; and the Property Defence Association is rapidly forming branches, affiliated to itself, in various counties, such as Cork, Wexford, Wicklow, Sligo, Queen's County, and Monaghan. At the same time, the Irish Land Committee is establishing corresponding local associations in different parts of the country charged to report on test cases fit to be defended and appealed upon, in the interests of the landlords. There will be plenty to select from, for the Land League has taken one case each from nearly every one of its eighteen hundred branches, although but few have been actually prepared and entered in the Registry of the Commission.

The Government, for their part, will not parley with the League. The law is everywhere to be enforced strictly, and every attempt to resist its execution will be promptly sup-

pressed. If the tenants, many of whom have the arrears in their pockets, will not pay up, they will have to go out; and a trial of endurance will ensue between landlord and tenant. Any person openly inciting to the practice of 'Boycotting' or to the withholding of rent, will be imprisoned; and it is hoped that by this firm treatment, steadily pursued, the agrarian madness may be finally tamed. In the meantime, however, the life of an obnoxious agent or landlord will be exposed to the rage of those bloodthirsty and unscrupulous half-caste ruffians, who, small in numbers, it is true, and against the will and conscience of their fellows, are yet sure of an asylum in every cottage even after the foulest murders.

It may be suggested that the landlord and tenant should obtain part of the arrears by way of loan from the Court, under the 59th Section. But it is stated on all hands that tenants will not agree to join in the application, and without their participation it cannot be made. This requirement of joint consent in the application is a fatal flaw in the Act. The Land Commissioners have been surprised at the small number of applications made to them under this Section. It is equally certain that in most cases landlords will not now consent to make the sacrifices required of them by the Section; that, in fact, as a gentleman said the other day, their 'backs are up.' In Ulster, as a rule, and on a few large estates, there will be no difficulty; but great numbers of the Land-Leaguers will resist to the last. The other day I heard a man swear that he would 'go out in the ditch before he would pay,' referring to what he considered an unfair rent. There appear to be only two ways in which the troubles thus apprehended in the winter may be avoided. One would be to pass a short Act, enabling the Commission during a period of six months to lend the landlord the amount at present authorised by Section 59, with or without the tenant's consent. The amount might be, as under the existing Act, repayable as increased rent, or better still, as a small redeemable tax. But this proposal, of course, would not be practicable until the meeting of Parliament.

A second plan would be the formation of a large subscrip-

tion fund, to which the English and the richer Irish landlords should liberally contribute, for making the loans just mentioned to their poorer brethren. The great objection to both schemes is that they might possibly encourage the members of the League to continue withholding payment of rents. But this forbearance would be but temporary; in all probability increasing numbers of tenants, seeing neighbours permanently settled on their holdings, at reduced rents, by the Land Commission, would be induced to avail themselves of its assistance; the Act would be quietly, thoroughly, and fairly tried, and much suffering, perhaps bloodshed, averted. Some danger of troubles will, however, continue to exist while the tenants tamely submit, as they do in many cases, to the dictation of one or two Land Leaguers. A landlord of rank told me on Saturday last that after some of his tenants had paid the agent, three Land Leaguers, not tenants, entered the room, and persuaded the rest to decline to pay without a large abatement, which was of course refused. The following letter was produced on the same day by the agent of one of the kindest and most generous landlords in Ireland. It speaks for itself:—

‘ October 14, 1881.

‘ Dear Sir,—A meeting of Mr. ——— tenants was held on the 12th inst., to consider the rent question. All of them either attended or sent representatives. The following resolutions were passed, with but one dissentient, and I was requested to forward them to you, which I hereby do:—

“ 1. Resolved.—That we will never again pay a rack-rent.

“ 2. That in event of distraint, or other harsh proceedings, upon the part of the landlord against any one of us, we pledge ourselves to pay no rent at all until the landlord shall have settled to our satisfaction with the aggrieved person.

“ 3. That in case of arrest of any of our leaders or friends we shall pay no rent until they shall have been released.

“ 4. That we demand an abatement of rent of 25 per

cent., and will pay no rent until this shall have been agreed to.

““5. That in case of legal proceedings being instituted against any one of us, we undertake to pay any costs he shall be put to.””

## CHAPTER VIII.

## THE OPENING OF THE COMMISSION.

DUBLIN: Thursday, October 20.

THE crisis is upon us. On Tuesday last the Central Executive of the League despatched copies of the 'No-Rent' Manifesto to all the branches; and to-day the Government have rejoined with a proclamation, suppressing the League. For the tenants' own sake one may be allowed to hope that the Manifesto may have small influence with them; for it might strike even the present generous majority in the House of Commons that there was no *raison d'être* for Fair Rent Courts in a country whose inhabitants denied the obligation to pay rent altogether. To-day, however, the Land Commission for the first time opened the doors of their Court to suitors, and already the telegraph wires are flashing its directions and requirements to all parts of Ireland. Provincial solicitors are industriously preparing affidavits for clients and instructions for counsel; local associations of landlords are reporting to the Land Committee on cases suitable for defence; and the whole country is lending itself to the business of litigation. All the newspapers contain leading articles on the work of the Commission, differing of course widely in their tone, treatment, and lessons. One common opinion is, however, discoverable in these criticisms—namely, that cases of genuine grievance, such as rack-renting and confiscation of improvements, are absolutely sure of redress. This is an obvious result of the new legislation; and so speculation runs rather upon the question of the probable action of the Court in dealing with what constitute, perhaps, two-thirds in number of Irish tenancies—that is to say, cases of moderate renting. This question, which has been

sufficient to occupy the whole energies of the leaders, officers, and members of the League for the last two months, is one to which the Commission will have to devote its closest and most wary attention, conscious that one or two slips in dealing with it may discredit all the really valuable and effective reforms which it may achieve. To this question, as if by instinct, Mr. Justice O'Hagan accordingly addressed the most telling and significant sentence in his inaugural address to-day; and during the whole of the sitting it was arising again and again, and pressing itself importunately upon the Court.

As regards the formalities and incidents connected with the opening of this unique tribunal, much that is interesting might be written. As soon as the porters and messengers had hastened to their posts at the Commission Offices, in 24, Upper Merrion Street, visitors with eager expectant faces began to arrive, and on presenting a card, or otherwise establishing a right to be present, were admitted to the Court. The house in which the Commissioners and their numerous staff are lodged is the old town mansion of the Earls of Mornington, and in it some hundred and twelve years ago, a child—afterwards the Duke of Wellington—was born; curiously enough, on the same day upon which, in a Mediterranean island on the coast of France, Napoleon Bonaparte first, with clenched hands, appeared. It is a building of great size, and its rooms are lofty, grandly proportioned, and well lighted. The Commissioners have each a full-sized room on the first floor, and the Secretary, Mr. Dennis Godley, C.B., is established on the other side of the landing. Upstairs Mr. Murrough O'Brien has characteristically provided himself with some very wide tables, on which ordnance maps for a whole province may be spread, and he has secured—what he values most of all—windows occupying great part of the sides of the chamber. An apartment of mysterious shape, approached by a winding passage, and which apparently has been the kitchen of the old mansion, is occupied by Mr. William Smith, the Registrar, whose laborious duties are shared by three assistants. All these rooms look comfortable, but the only

really pretty office in the ontiro building is that sholtering Mr. Fottrell, the solicitor of the Commission. Its mural decorations include a set of etchings, from which it may be gathered that the learned gentleman is a lover of the sea; and the colours of the carpets, furniture, paper, and mouldings melt into a sombre harmony, which must be soothing in the highest degroo to the irritable and over-worked legal brain. The solicitor's office opens directly into the Court-room of the Commissioners, once the dining-room of the Morningtous, into which no doubt little Arthur Wellesley was sometimes led at dessert time, and provided with a chair at a corner of the table. How would the inflexible old veteran have frowned had he ever been told in his lifetime that, in response to a successful popular agitation, three gentlemen, neither judges nor officers, would take their seats in that room in order to transfer without compensation an indefinite amount of the property of landlords to their tenants! The walls of the Court are covered with pale green paper, the ceiling handsomely moulded, and a large marble mantelpiece tops the fireplace. The dimensions of the room are about thirty-five feet by twenty. At the upper end, between two doors, one opening into the spacious hall and the other into Mr. Fottrell's sanctum, is raised a dais with a plain canopy of crimson on which stand three chairs for the Commissioners. Benches are fixed down the room for the advocates and the audience, and along one side runs a seat for the press.

At ten minutes to twelve the Court was filling rapidly. The spectators were many of them barristers or solicitors, with a priest or two, and some prominent merchants. About this time a group of ladies, in brilliant toilettes, entering from the solioitor's room, converted for the nonce into a bowor for their use, entered the Court and occupied a kind of box near the dais. Among them were Mrs. Forster, Lady O'Hagan, Mrs. O'Hagan, Mrs. Litton, the Misses Arnold-Forster and Waters, every lady in the circle being a connection of some high official. Mr. Herbert Gladstone, M.P., wearing a cravat of a brilliant crimson hue, sat by the Registrar; the

composure of his manner contrasting strongly with the evident agitation of that officer. As the clocks chimed the hour of noon, Mr. Commissioner Litten appeared, attired in the every-day working robes of a Q.C., and wearing a small wig, which had evidently seen service at the bar. Then came Mr. Justice O'Hagan, in similar robes, but with a brand-new Serjeant's wig. Mr. Commissioner Vernon followed, in a cut-away coat and hunting tie, as if to mark the essentially non-judicial character of the tribunal. There was a short interval of rustling and settling. Then every whisper was hushed, and a deep sense of the solemnity of what will be a historical scene seemed to pervade the place. At last, in obedience to a motion of Mr. Justice O'Hagan, the Registrar, Mr. William Smith, an amiable gentleman of much learning, but gifted with a full measure of the national excitability, started to his feet and said hurriedly, 'I declare the Court of the Land League to be now open.' A general titter, swelling instantly to a chorus of hearty laughter, greeted this indiscreet announcement, in which laughter the presiding Commissioner, Mr. Vernon, and even the learned Registrar himself, after hastily amending his statement, joined without restraint.

Then Mr. Justice O'Hagan opened a manuscript, and proceeded to read, in a voice of earnestness and power, an address in every way worthy of the occasion. After claiming for the procedure of the Court that it was 'of extreme simplicity, as free as possible from all the snares and pitfalls of technicalities,' and, further, that it was effective, the learned judge stated that certain mistakes made in the stamping of the notices would not be allowed to invalidate those documents. Incidentally remarking that it would not be possible to have a trial of any case for at least ten days, he proceeded to explain the 60th Section, which had really rendered necessary this sitting of the Court. And here he made an important announcement, whereby a pet grievance of the League leaders, perhaps more warmly urged than any other, will be done away with. The 60th Section, said his lordship, rendered any application made on the first occasion on which the Court



should sit equivalent to an application made on August 22 last, the day when the Act passed. And the effect would be, he said, that the judicial rent afterwards to be fixed would apply not only to the gales which might accrue after the date of the order, but also to those which accrued since August 22 last.<sup>1</sup> He further laid it down that applications made during the present sitting, which would be a continuous sitting extending up to Saturday, the 29th inst., in cases of ejectment under Section 13, Sub-section 2, would, with the aid of Section 60, entitle the tenant to have his time for redemption or sale extended. He thought, however, that the power of extending the time for redemption under Section 13 in cases of eviction for non-payment of rent arose only when the tenant desired to sell. The next point laid down was that an application made to the Court, during the nine days' sitting, would be made in the words of Section 60 'on the first occasion which it sits,' and thus save the rights of the applicant, as if made on the day of the passing of the Act.

The President next referred to the rare practice of private arbitration between landlord and tenant, and said that 'the rent fixed by them had been calculated so as to enable the tenant to live and thrive,' and he claimed that the Assistant Commissioners would really act as arbiters in this sense between landlord and tenant. This is worthy of attention. It is the first declaration on the part of the Commission that they consider their office purely that of arbitrators, and more important still, the use of the words 'live and thrive' seems to point to the conclusion that the Commissioners are taking the view advanced by Mr. Parnell at Maryborough, and since adopted by Archbishop Croker—that the fair rent must be such as to allow increased comfort, better dwellings, and better food to the tenants. There is not, so far as can be discovered, anything in the Act entitling the Commissioners to entertain such consideration for the tenant; but if they can see their way to ameliorate the lot of the wretched squatters on poor reclaimed bog and mountain land, without injustice,

<sup>1</sup> Judge O'Hagan has since declared that he did not mean to convey this opinion, and that the words quoted were inadvertently employed.

so much the better for the peace of the country and for the reputation of the Court.

The sensational part of the address, if I may use such an epithet in describing a solemn judicial deliverance, followed closely upon this passage. In London, firmer tones the President claimed for the Commissioners and their coadjutors the 'common human quality of courage to execute what we discern to be right.' This observation was received with loud cheering. The impression, however, left on the mind by the address, as a whole, was that the Court were considering the rack-rented tenants' side of the question solely, and that they declined to commit themselves further than by the words I have quoted describing the duties of an umpire as to the desirability of decreeing that general reduction of rents which is insisted on by the Land League.

The cases, 108 in number, were then called. They were in nearly every instance applications for permission to record applications to fix fair rents under the two Sections referred to; and the first noticeable characteristic of each case was the extremely loose and careless manner in which the instructions to the advocates had been prepared. Most of them were from Ulster, where the Act is growing in popularity every day. Mr. Parnell was safe in prison some two miles away while the Court sat. But the result of the teaching which had sent him into Kilmainham appeared when Mr. M'Gough, the solicitor to the Land League, rose, as the second case on the list was called, and displayed a huge pile of documents, each larger than a newspaper page, containing particulars of the test cases recently selected by the League. Time to procure fuller particulars was accorded him, and the application was then to be registered, as in the other cases. From that moment to the rising of the Court the proceedings were mostly in the form of a colloquy between the Registrar, Mr. M'Gough, and the presiding Judge. No landlord appeared as applicant during the day; but Mr. M'Gough brought into Court, amongst others, the Marquesses of Bath and Waterford, the Bishop of Derry, Colonel Forster, Captain Irvine, of Donegal, and Mr. Evelyn Shirley, of Monaghan. To-morrow he has cases against Lords

Leitrim, Bantry, and Arran, and for some days to come he will almost monopolise the Court. There were, however, cases of independent application to the Court, including a test case on behalf of thirty-three tenants of Mr. Fetherstonhaugh, and another for three hundred tenants of Mr. Parnell, of Armagh—not the President of the Land League. At a quarter to two, the list having been exhausted, the Court rose. .

## CHAPTER IX.

*THE FIRST CASES.*

DUBLIN : Friday Evening, October 21.

THE Land Commission continued to-day their first sitting, which, under an order issued yesterday, is to extend to and include Saturday, the 29th instant. It must be remembered that the Court are not now exercising any of the arbitrating jurisdiction conferred upon them by the Act. No landlord's rents, for instance, are to be cut down at this sitting, the sole object at present being to see that every tenant in the country who intends to try his fortune before the Commissioners, but whose case requires him to apply under Section 60 on the first occasion on which they sit, has the fullest notice of that occasion, and all necessary time to take advantage of it. He has to appear before the three Commissioners in their new Court in Dublin, either personally or by counsel or solicitor. He must state and, if required, prove the facts upon which he relies. Then the application will be recorded in the books of the Commission as having been duly made under Section 60, and any rights which may depend upon his applying under that Section will be secured to him. In other words, up to and including Saturday week the Commissioners will merely sit to register these applications.

There are three classes of persons whose rights depend upon a resort to the procedure under Section 60. First, tenants who have been evicted since February 22 last for non-payment of rent. Under the common law a tenant evicted upon this ground is allowed six months within which he may redeem his lost holding. In the class mentioned, therefore, the tenant would have been entitled if the Court had been

sitting on August 22 last, the date of the passing of the Act, to redeem now; and it is intended that such a man shall not suffer the loss of his right in consequence of the want of a Court to which he might then have applied. The second class of tenants includes such as have been evicted for some cause, non-payment of rent or otherwise, since August 22, when the Act came into operation. The third class of applicants embraces all who wish to have a judicial rent fixed, so that it may regulate not only future sales, but any sale which may have accrued since August 22 last. It may naturally occur to one's mind that many of the poor tenants on the far-off Western coast, remote as they frequently are from railways and newspapers, may after all remain ignorant of the long session now benevolently held for their safety and help, and there will doubtless be such cases. Such a misfortune, however, as the loss of right of sale or redemption by the omission to apply will certainly not be chargeable to the Commissioners. They have already gone to the utmost verge of legal conscience in holding that eight separate sittings of the Court on as many days constitute but one occasion—a decision which, but for the good intentions of those who have given it, might be described as a judicial bull of the purest breed. They have, moreover, caused their continuous sitting, and the object of it, to be advertised in all the Irish newspapers, which are now read by twenty persons for one who read them ten years ago in Ireland.

Yesterday there were over a hundred cases brought up coming under one or other of the three classes enumerated. Once or twice the facts were sufficiently established to allow registration in accordance with the 60th Section, but in nearly all the ignorance and heedlessness of the suitors were responsible for the postponement of their application in order to obtain necessary particulars. No important principle was laid down yesterday, however, for the guidance of tenants and the comfort of good citizens in these troublous times. The most conspicuous figure in the day's proceedings was again the solicitor of the late Land League, Mr. M'Gough, who brought into Court a great number of the printed forms on

which the officials of the branches had entered the particulars of their test cases. In one long line, running through many columns, were inscribed the tenant's name and that of his landlord, their respective addresses, the situation, extent and nature of the holding, with the name of the townland or electoral division, the amount of Griffith's valuation—by which particular it may be gathered that the form was drawn up some time since—the rent paid, or rather payable, and so forth. Of course it was impossible to discover from the mere title of the application, as stated in Court, what were the particulars of the cases. But every one was a case of eviction. Mr. M'Gough named amongst others some tenants of Mr. M'Goough, county Armagh, as applicants for the fixing of a fair rent. This landlord is a country gentleman residing at Silverbridge, Castleblayney, whose estate is seven thousand two hundred and thirteen acres, valued at 4,079*l*. I think I may say that the following are the particulars of these cases :—James Small, Forkhill, nine Irish acres, 6*l*. 1*s*. 11*d*. rent; 5*l*. 1*s*. Poor-law valuation; 12*l*. 3*s*. 10*d*. arrears due to date of eviction. James Martin, of Cashol, eleven acres two roods Irish, 12*l*. 15*s*. rent; 12*l*. 15*s*. Poor-law valuation; 32*l*. 7*s*. 6*d*. arrears due to date of eviction. Peter Quin, of Colbrig, three acres two roods Irish, 3*l*. 16*s*. 3*d*. rent; 3*l*. 18*s*. Poor-law valuation; 7*l*. 12*s*. 6*d*. arrears due to date of eviction. Patrick Rafferty, Mullabawn, nine acres three roods Irish, 9*l*. 10*s*. rent; 9*l*. Poor-law valuation; 19*l*. arrears due to date of eviction. Thomas O'Hara, of Legallan, twenty-seven acres statute, 15*l*. 17*s*. rent; 20*l*. Poor-law valuation; 38*l*. 18*s*. arrears to date of eviction. James Kelly, of Ferlagh, fourteen acres one rood statute, 12*l*. 17*s*. rent; 12*l*. 10*s*. Poor-law valuation; 25*l*. 14*s*. arrears to date of eviction.

It will be seen that these cases are not selected from the class of rack-rented cases. It is said, however, that Mr. M'Gough has a number of rack-rented cases to bring before the Court, and I am, indeed, aware from actual observation that at least in the south some rack-rented tenants were taken as applicants; but it is just possible that Mr. M'Gough may not again appear before the Commissioners, and that

their cause list in consequence may be thinned. The tearing up of the outward visible League, root and branch, has deprived him at an hour's notice of some thousands of clients. The cases were not sent up to him by the evicted tenants themselves, but by the secretaries of the local Leagues, who had entered the particulars on the forms supplied from Sackville Street. Now many of these secretaries are either captured or apprehensive of imprisonment. The local branches dare not meet, and the country officials cannot tell whether the despatch of a letter of instruction to Mr. M'Gough may not subject them to immediate arrest under the Lord Lieutenant's proclamation. It is therefore possible that what between the untoward championship of the League and the interference of the Government these unlucky evicted tenants may come to grief. It is hard to expect that Mr. M'Gough should suddenly assume the dangerous responsibility of prosecuting countless claims against rich landlords at his own risk. Perhaps the Commissioners, who have hitherto most anxiously consulted the interests of their poor suitors, will come to the rescue with some rule, entitling the tenants to obtain the security of the Act by a mere notice posted at the nearest town, or at any time by their giving evidence that they had been taken by surprise by the proclamation, and that their cases had actually been supplied to Mr. M'Gough.

To-day the Commissioners suggested in a case that came before them an opinion of great importance. William Koogh, of Wicklow, complained that he had been forced to sign since 1870 a stringent lease exacting far too high a rent, and wished to have it broken on that ground under Section 21. I was greatly impressed by hearing Mr. Justice O'Hagan tell the applicant that a very serious question arose as to whether, under the Act, there was any power given to break such a lease by reason merely of the requirement of any rent, however large. Some other wrong must be proved, such as a clause in the contract specifically depriving the lessee of the benefit of the Act of 1870. He, however, did not positively decide the point, so it would be irregular and presumptuous to discuss the question at present. It might be difficult,

perhaps, to find one of these disgraceful leases imposed upon farmers, which did not contain a proviso, stipulating that the tenant should not be entitled to the benefits of the Act of 1870. And thus the reservation of rent and the clause of deprivation may, like footpads in the darkness, destroy one another.



## CHAPTER X.

## THE EJECTED TENANTS.

DUBLIN: Wednesday, October 26.

A VERY small audience, consisting almost to a man of lawyers and journalists, assembled this morning in the Court of the Land Commission. To the hands of Mr. Justice O'Hagan and his colleagues are committed the partition of property to an incalculable amount, and the peace of a nation. Yet those who attend the sittings of these powerful personages are as inconsiderable in point of numbers, behave with as much freedom at interesting moments, and yawn with the same abandon after the first half-hour or so, as if they sat in the dullest of London County Courts. Although it cannot be said that any decisively affecting lauded property has yet been pronounced, it is already sufficiently apparent that every section and sentence of the Act will be vigorously contested by the advocates of the landlords. The Irish barristers are not a whit behind their English brethren in technical learning and dialectical aptitude. The most complicated mass of facts and figures is unravelled by them with ease and smoothness, the Judges never interrupting, and the diction of the Bar is certainly purer than that of Westminster Hall. But the Irish 'counsellor,' as a rule, lacks repose of manner. He does not, as in England, usually confine himself to one branch of practice out of the many—criminal, common law, equity, parliamentary, ecclesiastical, and divorce—which, in a rising scale of emolument, invite his services. Mr. Whiteside and Mr. Butt could, like skilful actors, change the style as circumstances required,

speaking by turns in the dignified House of Lords manner, the winning *Nisi Prius* manner, and the furious State Trial manner. The last would seem to be considered by the pleaders to be most likely to tell before the Commission. The audience listens with grave appreciation. The average Irishman has much respect for legal ability, provided it be not directed against himself. I heard the other day of a solicitor in the County Cork, who in the course of his professional duties pointed out a flaw in a writ to his client—a neighbouring tenant served with it. The consequence was that a large number of actions against the tenantry were set aside, and the solicitor became a local hero. He afterwards, in the course of his professional duties, took out writs settled by himself against certain of those who had formerly benefited by his cunning. He was immediately denounced as a traitor, burned in effigy, and at last his life was attempted.

The first leading case has now been decided by their Lordships. An application was made to transfer a case of '*Knipe v. Armstrong*' from the County Court of Armagh to the Commission Court. Knipe, the applicant, as administrator of Alexander Mulligan, deceased, claimed 270*l.* compensation for disturbance, or, in the alternative, for improvements. This claim was made under the Act of 1870, and was filed in the Armagh County Court in April last. To understand the application to transfer it, it must be borne in mind that the County Court Judges as a body are considered by the tenants to have interpreted the Act of 1870 in a manner illiberal, so to speak, towards their interests. Many of the tenants expect that the Land Court, impressed by the spectacle of the League, still threatening and terrible, even at its last gasp, will be inclined to give decisions more favourable to the cultivators of the soil. Hence an application like the present was looked for as a matter of certainty so soon as the Commissioners should sit. Mr. Knipe, however, had no reason to offer for desiring to change his forum, and Judge O'Hagan was inflexible. He acknowledged the compliment paid to the Court, but held that the 37th Section of the Act of 1891,

enabling the Commission to transfer into their own Courts proceedings commenced in the Civil Bill Court, only applied to proceedings properly initiated before the Commission, such as applications to fix a fair rent, and not to proceedings in ejectment, as in the present case. The Commission, he held, had no jurisdiction in ejectment, and the two Acts were not to be read as one, except where the sections and provisions of the first were expressly incorporated in the second. Mr. Litton, in a masterly judgment, sustained this view, and the landlord's advocate therefore triumphed.

Some days ago I called attention to the position of the evicted tenants. Large numbers of farmers in the West and South, who had suffered eviction since February 22 last for non-payment of rent, or who had been evicted on other grounds since August 22 last, the date of the passing of the Act, were induced to place their cases in the hands of the solicitor to the Land League, Mr. M'Gough. Those who had been evicted for non-payment of rent since February 22 would, of course, have had the right to apply under the Act on August 22 to the Commission, if then sitting, for relief. The Court by its present continuous sitting is carrying out fully the letter and spirit of the 60th Section, which makes an application on the first occasion on which it sits as efficacious as an application would have been if it could have been made on August 22. But on the very first day of the continuous sitting the Land League was dissolved by proclamation. This proclamation warned all persons to 'disconnect themselves' from the League, and declared the intention of the Government to 'save the process of the law from hindrance or obstruction.' Now, on the 20th inst., when without a moment's interregnum the Land League was pulled down and the Land Court set up to reign in its stead, some hundreds of evicted tenants and a large number of tenants who were dissatisfied with their leases had left their interests in the hands of the legal department of the defunct organisation. This fact was well known to everybody, and if the League had confined its care to the cases of eviction coming before the Court there would have been less reason to complain of

it. For weeks together the agents of the League went about the country collecting elaborate particulars of the intended 'test cases,' and despatching those particulars when complete to the 'Central Executive.' The account given of a progress of Mr. Healy's for this purpose may, perhaps, be remembered. But this method of choosing the cases was ultimately changed for another. In order to save time, representatives of the League were stationed at central places, and to them resorted the secretaries of the neighbouring branches of the League, each man bringing in the proposed 'test cases' selected from his branch, and in some instances, but not in all, the tenants whose rights were to be brought forward also attended. All this was openly done. It was reported in the newspapers, and, so far as any action on the part of the Government was concerned, the tenants were left at liberty to believe that the Association and its proceedings about 'test cases' were perfectly lawful. The condition of the tenants who stood out of their holdings on February 22, and even of some who were evicted later, is now rendered very perilous. It could not be expected that Mr. M'Gough should take up on his own responsibility, and after being, like everybody else, warned by proclamation to 'disconnect' himself from the League, the very business which had drawn down the wrath of the Government upon that body, without even the incentive of perhaps getting his costs. No solicitor in his senses would, single-handed, take up on speculation an overwhelming mass of doubtful cases, and fight them against the combined wealth and power of the baited landlords of Ireland.

Moreover, the Court required strict proof of service of the originating notices, and in the scattered state of the League officials, most of them fearful as to arrest, it would have been very difficult to communicate directly with the tenants, and obtain the required proof in time. Many of these men, living on lonely hill-sides, and in unfrequented wilds, rarely visit the post-town to fetch their letters. Many are without money, and few can read and write. Up to to-day nothing had been

done to warn them that henceforth there was no one to look after their cases for them, and that they must by Saturday next, three clear days only, serve the originating notices, prepare the necessary proofs, and move in Dublin to have their applications registered. The Government were quickly aware of the hardship they had unwittingly caused, but it was not in their power to apply a remedy. On the other hand, the Commissioners were in no way responsible for the event which had thus virtually rendered their long sitting useless to the most helpless and ignorant of the class intended to be accommodated by it. They saw, besides, the extreme difficulty and inconvenience of delaying the sitting of the Sub-Commissions at the present crisis. Some of those tribunals will probably sit on the 31st, and it could hardly be held with propriety that an application made to the Commission in Dublin after Sub-Commissions had actually sat in the country was made on the 'first occasion' of the Court sitting. The Commissioners were at the same time anxious that no unfortunate suitor with a good case should hereafter find the doors of the Court, from no fault of his own, closed against him. Accordingly, there appeared yesterday morning in the columns of a popular journal a mysterious notice in leaded type in these words:—'Notice to tenants evicted since February 22, 1881. Bring your case before the Court of the Land Commission before October 29. If you omit this all your rights are lost. The priests are requested to make the evicted tenant aware of this fact.' Mr. Mc'Gough, on his part, has sent to-day a copy of the following notice to every one of the hundreds of persons whose names are entered on the Land League forms, addressing the envelopes according to the description found on those forms:—

33, Upper Ormond Quay, Dublin, October 22, 1881.

'Dear Sir,—I regret to inform you that in consequence of the action of the Government in arresting Mr. Parnoll and the leading members, officials, and organisers of the Executive of the Land League who were engaged in working up the de-

tails of your case, as well as the others with which I was charged for presentation before the Land Commission Court, it becomes absolutely impossible for me to proceed further with your application. I therefore take this, the earliest possible opportunity, of informing you that I feel compelled, as well in your own interest as in justice to myself, to retire from the conduct of your case, and that on Wednesday next I shall feel it my duty to inform the Court of the Land Commission. It will now be necessary for you, if desirous of continuing proceedings before the Land Commission, to place your case in the hands of some solicitor whom you can personally instruct. On receiving an intimation from the solicitor you appoint, I will at once transfer to him any papers connected with your business that may have reached this office, and will be happy to afford him any information or assistance I can give.—Yours truly, P. O. M'Gough.'

It is obvious that without some further extension of the 'first occasion,' most of these persons, together with a number of others whose cases were not entrusted to Mr. M'Gough, will apply too late, and serious scandal, if not danger, will arise out of the first proceeding of the new Court. An ordinary court of justice can afford to disregard such attacks as are likely to be made upon the Commission if the unhappy subjects of the 'test case' experiment are ruined. But the Commission, apart from its economic and legal function, has to fulfil a political and social purpose—the contentment of the agricultural interest in Ireland, and it, therefore, cannot afford to despise public opinion. An evicted tenant, who has lost hundreds of pounds by a legal technicality, will be at once provided in every district, to enforce and illustrate by his misfortunes the warning lessons of the Land League. Whatever benefits—and they must be immense—the Commission may confer generally, the recollection of the misery inflicted upon these evicted tenants will spoil all, and throw the Parliamentary system into greater discredit. It is, therefore, to be hoped that the Commission will make a new rule,

under Section 50 of the Act, extending the duration of the present sitting.<sup>1</sup>

<sup>1</sup> Being deeply impressed with the necessity of this extension of time, I supported the suggestion here made by making respectful representations to the Commission authorities upon the subject. It was by some persons maintained to be *ultra vires*, but ultimately the time was further extended up to the 12th of November, and a number of helpless evicted tenants thus enabled to take advantage of the Act. I must here acknowledge the courtesy with which, upon this, and every other occasion, I was treated by the authorities referred to.

## CHAPTER XI.

*ARCHDEACON CRAWFORD'S CASES.*

BELFAST: Monday Night, October 31.

TO-DAY two Sub-Commissions sat for the hearing of cases—one at Castleblayney, and the other at Belfast. The first, after going through the cause list at Castleblayney, will visit other towns, in various districts of the counties of Armagh, Monaghan, Fermanagh, Tyrone, Londonderry, and Donogal. Its members are Mr. Kane, Mr. Bayley, and Mr. Garland. Mr. Greer, Mr. Baldwin, and Mr. Ross form the other Sub-Commission, which sits first at Belfast and afterwards at Newtownards, Downpatrick, Larne, Antrim, Lisburn, Ballymena, and Banbridge. Other Sub-Commissions will begin work next Tuesday week; one, consisting of Mr. Reeves, Mr. O'Keefe, and Mr. Rice, will have jurisdiction over Clare, Limerick, and Cork; and another, including Mr. J. G. M'Carthy, Mr. Houghton, and Mr. J. J. O'Shaughnessy, will hear cases in Galway, Mayo, Roscommon, Sligo, and Leitrim.

The Assistant Commissioners will not, therefore, as has been already pointed out, be sent into districts where they might have to resist personal and social influences, adverse to the maintenance of the judicial temper. They will not accept hospitality from any person, however dignified, lest the fairness of their decisions be questioned, or even suspected. No one, however slightly acquainted with the feelings and opinions of Irish farmers at the present moment, will wonder at the sturdy determination of the Assistant Commissioners to pay their own expenses wherever they go.



The Act is now to all appearance, and contrary to the expectation of many interested politicians, to have, at least in some considerable portion of the island, the fair trial demanded, and even enforced for it by its framers. But it must be remembered that, as the strength of a fortress is that of its weakest work, so the reputation of the Commission, in other words its power for good, is altogether dependent upon the discretion of the least wise and careful of its members and subordinates. The Assistant Commissioners act in the presence of popular criticism such as might well enervate the strongest judges, and they bear individually a responsibility such as has rarely been placed upon judicial authorities. Most of them, without any experience of such duties as they have now to discharge, enter upon business that will tax their utmost energies and capabilities. They met in Dublin, and arrived it is said at some agreement upon the general principles of their decisions, so that it is not likely that a hasty pronouncement upon some point of wide interest can bring the new Court into disrepute. But, to make assurance doubly sure, it is now intended that appeals from the Sub-Commissions shall be entertained as soon as possible after the decree in the first instance.

The delicate question of the breaking of leases made since 1870 will be altogether withdrawn from the cognisance of the inferior tribunal, and will be determined by the full Court of Commissioners. Thus the most remarkable power conferred by the Act, namely, that of annulling numbers of agreements made in the most solemn and binding fashion known to the law, will be retained in the hands of those to whom Parliament first committed it. The Commissioners have, moreover, taken the precaution to retain the power of dismissing an incompetent or wrong-headed Assistant Commissioner, as will be seen on examining the following copy, the delegation of authority to Sub-Commission No. 2:

'Sub-Commission No. 2, Land Law (Ireland) Act, 1881.—The Land Commission hereby forms and appoints a Sub-Commission in and for the counties of Antrim and Down. The Sub-Commission shall consist of the following Assistant

Commissioners, namely, Edward Greer, Esq., Thomas Baldwin, Esq., and James M. Ross, Esq. The Land Commission delegates to the Sub-Commission power to hear, decide, and make orders in the cases under the Land Law (Ireland) Act, 1881, mentioned in the schedule hereto appended, and such other cases within the said counties as may from time to time be sent to the Sub-Commission by the Land Commission for decision; and further delegates to the Sub-Commission all powers, "except as to appeals," which the Land Commission itself possesses for the purpose of hearing, deciding, and making orders in all such cases as aforesaid. The powers hereby delegated shall be in force for the period of two months from the date hereof, but the Land Commission may, by order, extend or abridge the said period or any extended period. The expiration of the said period of two months, or such other period aforesaid, shall not prejudice any pending case which may be continued and dealt with by any subsequent Sub-Commission, as if such period had not expired. The Land Commission reserves power in case of sickness of any member or members of a Sub-Commission, or for other sufficient reason, to appoint any other person or persons who, under the Act, is competent to be a member of a Sub-Commission, in substitution for any present or future member or members thereof, and no pending proceedings shall abate, or be in any way affected by such substitution.—Dated this 27th October, 1881.—Seal.

‘ SCHEDULE.

‘ Landlord.	Tenant.	County.	No. of Case.’
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Notwithstanding all these precautions it is sufficiently obvious to every person brought into contact with the landlords that the Commission is not possessed of the full confidence of that class. The use of the words ‘Live and thrive’ in the written address by Judge O’Hagan describing the ideal condition of successful applicants, has caused much surprise and alarm. The extension of the ‘first occasion’ at which tenants must apply to the Court for relief under Section 60 is felt

as a serious blow by the rent-receiving classes. I believe I was the first to point out the absolute necessity of this extension, on behalf of the evicted tenants, whose interests had been jeopardised, by the sudden suppression of the organisation which had undertaken their cases; and it is probable that the Commissioners will, if need be, extend the time still further for the benefit of such tenants. But it is clear that the case of tenants who, having in many instances the money in their pockets, are applying in large numbers under that Section, stands upon a very different footing. There are now over 8,000 applications before the Commission to fix a fair rent, of which upwards of 4,000 came in on Saturday, and it is no exaggeration to say that the existing machinery of the Commission is blocked for years to come. The Treasury have telegraphed full powers to engage temporary assistance, and the staff are working night and day to keep abreast of the business. Mr. Smith, the Registrar, climbs to his office over piles of applications not yet read. In most cases these are to have a fair rent fixed. The Commission seem to have intimated that the Court would receive applications under Section 60, and record them so as to make the rent payable on the first gale day after the passing of the Act, subject to the reduction, if any, to be afterwards effected by the Court. I have not heard any member of the Court hold this view in any particular case, and it is certainly one altogether at variance with the 2nd Sub-Section of Section 8, which runs thus :

‘The rent fixed by the Court in this Act referred to as the judicial rent shall be deemed to be the rent payable by the tenant as from the period commencing at the rent day next succeeding the decision of the Court.’

There is no fear of the Court overlooking this sub-section, but the following passage from the speech of Judge O’Hagan, at the opening of the Commission, no doubt gave some colour to the unfortunate view of their rights under the section, which so many of the farmers entertain :

‘The judicial rent will apply, not only to those gales which may accrue after the date of the order, but to those

which have accrued since August 22, 1881, the date of the passing of the Act.'

This language, it will be seen, is opposed to the plain construction of the passage just quoted from Section 8; and one cannot be surprised to find that it has since been withdrawn by the learned judge. *Another complaint of the landlords* is that the list of cases for trial is not published beforehand. It is said that this is as great a grievance upon the tenants as upon the landlords. On the other hand, there can be no doubt that the landlords might lose millions a year by a decision suddenly given at some out-of-the-way place by a Sub-Commission, which decision would be immediately quoted to other Sub-Commissions, acted upon, and irrevocably established. Hopes are entertained, however, that Sub-Commission No. 2 will put a list of their cases in the newspapers every morning in the usual way.<sup>1</sup>

Sub-Commission No. 2 has not been idle to-day. Professor Baldwin and Mr. Downing, the Registrar, came up from Dublin this morning by the early mail, and reached the Imperial Hotel at about half-past eleven. After a short consultation Mr. Greer and Mr. Ross, with the Professor, drove away to the County Civil Bill Court, and took their seats shortly after twelve. The Court was about half full of farmers, all looking anxious, and a little scared. The front rows were closely packed with solicitors and their clerks. On the left hand of the Court sat two ladies, and a number of reporters were busily whittling their pencils at the other side of the solicitors' table. The Court room was cold and gloomy, and a little mist had been wafted in from the streets. A door opened, and the audience rose as the three Assistant-Commissioners filed in. After a few words from the Registrar declaring the mission of the Court, the first case was called.

Isabella Sims Campbell brought her landlord, the Rev. Archibald Crawford, into Court, to have a fair rent fixed for her farm. The Defendant, who has clerical duties to perform in Australia, did not answer to his name, but Counsel appeared

<sup>1</sup> This suggestion was, after some opposition, finally adopted upon all the Sub-Commissions.

for the agent, Mr. Macanliffe, and admitted service of the originating notice. Mr. M'Mordie, a local solicitor, represented the applicant, and stated that he was also the legal adviser of two thousand other tenants about to apply to the Court. This is not a surprising number for a north-country Commission to have upon its lists. Last Saturday I saw fourteen thick bundles of Ulster applications borne in to the Central Offices of the Commission at a single delivery. The bundles of applications lying on the tables sorted into provinces from the envelopes, in post bags on that day, wore, however, of very different thickness. The Leinster heap was about three inches thick, including one sheet from County Dublin. The Munster pile was perhaps five inches thick, the Connaught bundle seven. But Ulster applications were not less than two feet three inches in thickness.

To return to the Belfast Court House. The dispute was at first confined to a discussion as to whether the Sub-Commission should adjudicate in the absence of the Defendant and of his wife, who is possessed of a life estate in the lands, but it ultimately became a simple question whether the tenant was paying too much rent. Mrs. Isabella Campbell is the widow of James Campbell, who, with his father, grandfather, and more distant progenitors, had lived and died upon the family holding of five acres three roods and thirty-five perches. James had a lease, dated 1842, at 5*l.* 15*s.*; but in 1866, at the end of the term, the rent was raised to 9*l.* 4*s.* 4*d.* The valuation is 6*l.* It was admitted that the tenant and her family had rebuilt the dwelling-house, but it was contended by Mr. Overend, an ingenious and ready advocate, on behalf of Mr. Crawford, that the house had been rebuilt under a covenant in the lease, and that at the end of the lease it had become the property of the landlord. Mrs. Campbell, an old, bright-eyed dame, was very clear and precise in her answers to Mr. M'Mordie; but she shone chiefly in cross-examination. She was asked by the young advocate how many children her husband had left her when he died? 'Four,' said she, sharply. 'I have them yet, and I have no more.' She thought twelve shillings per English acre would be a fair rent

for the land. 'But is not the house a good one?' inquired Mr. Overend. 'We made it good,' rejoined Mrs. Campbell. It appearing by her evidence that her husband had left no will, and that no one had taken out letters of administration, it was submitted that she was not tenant, and that one of her two sons might, on the day after the decision of the Sub-Commission, take out letters and defeat the proceedings. The Court, however, hold that she was the present tenant, and three other tenants of Mr. Crawford, who is sued by nineteen altogether, were called to corroborate her statement that twelve shillings an acre would be a fair rent. The last witness, an honest, intelligent farmer, put the yearly value at nineteen shillings, and explained his method of arriving at that figure to Professor Baldwin. He had only valued the land, assuming that the fences and the house were the property of the tenant, and he thought the tenant-right worth fifteen pounds an acre. The land, he said, might produce corn, but with a light head; it might grow light mangold wurzel, but oats and potatoes would be the good crops.

After his evidence, which greatly displeased Mr. M'Mordie, the Sub-Commission determined to visit the farm forthwith; but, first, Professor Baldwin took occasion to say, in an emphatic manner, referring to a suggestion that the farm might be worth more because it was near some bleaching works, 'in determining the value of land, all these matters are beside the question. All we want to know is the agricultural value of the land.'

At about half-past two o'clock the Sub-Commission started to visit the applicant's farm, which is situate at Carnmoney, in the townland of Ballycraigie, at a distance of about seven miles from Belfast. It was announced in Court that the Commissioners would only allow the litigants and their solicitors to be present, but by special permission I was also of the party.<sup>1</sup> The way was long, the wind was cold; but at

<sup>1</sup> Upon some of the Sub-Commissions there is great objection made, I understand, to the presence of newspaper correspondents. Any Assistant Commissioner entertaining such an objection would seem to require a little enlightenment upon the situation. Many powers are in these days

last we were on the land, and were speedily joined by the litigants. The house was a long, low, dark dwelling, divided into four compartments, two of which were appropriated to human, and two to bovine occupants. The tall, shapely daughter of the house fetched her brother, a crumpled-looking, feebly-built young man, to go over the fields with us. With the exception of a patch of turnips, and another of potatoes, the holding was entirely under pasture. In every field Professor Baldwin had spadefuls of earth taken out and carefully examined. The farm, which is wretchedly cultivated, lies on a slope. The upper part is dark-coloured loam on a light, tilly subsoil, which must get rid of any quantity of manure. But the lower part is on clay, and might, the Professor thought, be made to render large returns for tillage. This part was, however, insufficiently drained. It was wet and slippery, and a rank growth of rushes rose upon it. All the Commissioners showed an intelligent appreciation of the state of cultivation in different parts of the holding, and I thought they seemed a little shocked at the obvious neglect on the part of the occupants of what might be made very good land indeed. It does not seem, however, that any judgment will be possible for a day or two in this case, or any other of the Belfast cases, as no professional valuers have yet been procured, and it might be open to objection if their services were not sought for in accordance with the suggestions of the Act. In the Appendix will be found a report of this case.

entrusted by Parliament to comparatively obscure individuals, solely because the vigilance of the Press is relied upon to prevent the abuse of such powers. Does any Assistant Commissioner really suppose that Parliament would consent to turn a number of untried judges loose upon the estates of Irish proprietors, to range in secret; merely obliging the landlord, perhaps, with a copy of his new rent-roll, as amended?

## CHAPTER XII.

*ARCHDEACON CRAWFORD'S CASES.*

BELFAST: Tuesday Night, November 1.

THE Sub-Commission resumed its business at eleven o'clock this morning in the County Court, Belfast. Again the whole day was occupied with the cases of the tenants of the Venerable Archdeacon Crawford, upon his estate at Carrumoney, a few miles from Belfast. The Commissioners yesterday visited the farm of the first claimant on their list, Mrs. Isabella Sims Campbell, and took the opportunity of inspecting the neighbouring farms. To-day Mr. Overend, the Counsel for the Archdeacon, produced the counterpart of a lease for twenty-one years (substantially the same in the case of every tenant), dated October 8, 1842. The lessors were the four trustees of Mrs. Campbell's marriage settlement, H. Cosgrove, Joseph H. Singor, John Mallin, and Alexander Cruce. The learned Counsel next read a covenant by the lessee to 'preserve, uphold, maintain, and keep in good order the said premises, and every part thereof, and the improvements made thereon, and at the end of the demise to leave and yield up the same to the trustees.' At the expiration of these leases, in 1863, the tenants all became tenants from year to year, and on April 24, 1866, the agent, Mr. McAuliffe, by the instructions of Mr. Andrew Crawford, the landlord's brother, had the tenancies re-valued, and raised rents all round by notice. This agent was called, and in the most candid manner admitted the fact of the notice, and that the tenants would have been evicted if they had refused to pay the increased rent. He had not seen Mr. Crawford, the landlord, for seven-and-twenty years, and the landlord, he said, had not



spent a shilling on the property; but he thought that the extension of buildings in Belfast towards the township of Ballycraigie, in which the holdings were situated, had raised the value of the property, and that being so he could not see why the tenants should not pay more. He further thought that the existence of a manufactory in the neighbourhood, at which the children of the tenants had obtained employment, was another reason for raising the rents of farms so conveniently situated.

Mr. Overend now proceeded to raise some objections to the proceedings, but he consented to some formal amendments of the pleadings, in order to avoid anything like technical quibbling. He insisted, however, that Archdeacon Crawford, the landlord, was not named in any of the leases or notices, so that the originating notice should not have been made out in Mr. Crawford's name in his capacity of husband to the tenant for life, but in the names of the trustees, or, at least, of the wife. This objection was at once overruled by the Chairman (Mr. Greer), whose demeanour on the Bench, full of dignity and self-possession, has produced a most favourable effect upon the public mind in Belfast.

The next point taken by Mr. Overend was of a far more serious character, and elicited an opinion from the Bench which, if adopted by the first Sub-Commission also, must have a wide and radical effect on the cutting down of rents in Ulster. The landlord's advocate pointed out that the improvements had been substantially—almost entirely—effected during the continuance of the leases; and he argued that at the termination of the terms limited, the interest in the improvements passed by law, and also under the covenant which has been quoted, to the landlord, and were merely relet by him to the former lessees, who became tenants from year to year. It was, therefore, urged that in fixing fair rent these should be treated as the absolute property of the landlord. Of course Mr. M'Mordie, for the tenant, Mrs. Campbell, resisted this doctrine; but he ventured upon no argument of a legal nature. He told the Commissioners that to hold that improvements, actually proved, as these were, to have

been made by the tenants, nevertheless belonged to the landlord, would be to assent to the Legislature of a want of common sense. The audience in the Court, which was more numerous than on the opening day, sat silent but eagerly attentive as Mr. M'Mordie concluded, and it was evident that a sense of the importance of the issues involved in the determination of the question raised possessed every mind. A number of the neighbouring landlords sat behind their advocate, and on either side of the Court and far up the body of it were gathered masses of anxious farmers. The Commissioners, as if by arrangement, looked one at the other, rose, and filed forth. Then for ten minutes there was quick, earnest conversation all over the Court. Many spectators left their seats to confer with friends. Voices grew loud in argument, and the only light-hearted men in the place seemed to be the rival advocates.

In about ten minutes the usher again cried 'Silence,' the members of the Court returned, and Mr. Greor said quietly, amidst a deep silence:—'We have considered this point, and we are of opinion that the tenant is entitled to the benefit of the improvements made in this case; unless Mr. Overend, on the part of his client, can give us evidence that the improvements were made by the landlord or his predecessor in title.' The speaker's voice had hardly died away before the air throbbed with a loud cry of applause from the listening tenants, which was repeated, notwithstanding Mr. Greor's remonstrance, when Mr. M'Mordie declared that if the decision were not upheld on the appeal threatened by his opponent, the Land Act would be a delusion and a sham. Mr. Overend, however, with the utmost *sang froid*, admitted his lack of the required evidence, and then suggested that, to obviate the necessity of a re-hearing by the Sub-Commission, in case its decision about the proof of improvements were overruled on appeal, the Court should fix two alternative rents, one allowing the improvements to the tenant, the other treating them as the landlord's property. This was refused by the Court, and the matter stood over for the hearing of the other cases upon the estate. These were almost precisely similar in

character. In all it was proved that the tenants had made the improvements—buildings, fences, drains, and so forth—under a covenant to repair and yield up the improvements; that the landlord had never paid a farthing to improve the holdings; and that the rents had been raised in some cases thirty per cent. at the expiration of the leases. The rents will not, however, be fixed until every case has been gone through, but it is as certain as anything which has not happened can be, that these rents will be reduced again to the old figure, or even lower.

The effect of this decision, in all probability arrived at by the application to the facts of certain general principles, which it is well known were practically settled some time since, at meetings in Dublin of the entire body of Commissioners and the chief members of their staff, can hardly be estimated at once. It will be observed that the Assistant Commissioners to-day gave no reason for their decision. They cannot rely upon Section 5 of the Act of 1870, which provides that improvements made within a period of twenty years before the passing of that Act should be presumed to have been made by the tenant, for that section (which was, however, mentioned to-day in argument) refers only to estates not subject to the Ulster Custom, and to compensation for disturbance in the holding. Here the estate was proved to be subject to the Ulster Custom; and the occasion was not a disturbance by a landlord of the tenant's occupation, but an application by a tenant to have a fair rent fixed. Again, it was proved that these improvements were mostly made before 1850, the first of the twenty years preceding the date of the Act referred to. On the other hand, the landlord's agent admitted that his principal had not expended a shilling in improvements; and this fatal acknowledgment had no doubt weight with the Court. Finally, disregarding the express words of the covenant, the Court may have relied to some extent upon Section 7 of the Act of 1881, providing first that 'a tenant on quitting the holding of which he is tenant shall not be deprived of his right to receive compensation for improvements under the Act of 1870, by reason only of the determination, by surrender or

otherwise, of the tenancy subsisting at the time when such improvements were made by such tenant or his predecessors in title, and the acceptance by him or them of a new tenancy.' The Sub-Commissioners may have thought that if such improvements belonged to the tenant upon the occasion of quitting a holding, they equally belonged to him upon the occasion of his seeking to have a fair rent fixed. Otherwise he would be taxed in rent upon his own property in proportion to the amount acquired. They may also have attached importance to the permission in the words of the third paragraph of the same section to 'admit, reduce, or disallow altogether such claim as to the Court may seem just.' But in the absence of reasons for a judgment it is difficult to explain, attack, or even defend it.

## CHAPTER XIII.

## ARCHDEACON CRAWFORD'S CASES.

BELFAST : Friday Night, November 4.

YESTERDAY was spent by the Assistant Commissioners in a manner for judges somewhat unconventional. The President, Mr. Greer, who was suffering from a cold, and moreover had already examined the character of Archdeacon Crawford's estate at Carnmoney, did not go out. But at half-past nine in the morning, Commissioners Ross and Baldwin rattled along the smooth broad road to the village, the Professor, as usual, in the highest spirits, in spite of the drizzling rain, and of the mist which hung over the loch to the right, veiling the richly cultivated mountain slopes. On reaching Mrs. Campbell's house, the Commissioners dismounted, and began forthwith, on one of the muddiest, dreariest spots in Ireland, a careful examination of the soil, the subsoil, the fences, or rather clay walls, the drains, crops, weeds, farming implements, byres, piggeries, outhouses, and finally the homesteads. By three o'clock all had been completed, but in the meantime many moving accidents of flood and field had happened. The ground was thoroughly sodden; the ditches were wide, and full to the brim, and mud walls were high; but, nothing daunted, the new judges, although differing in age and temperament, showed equal daring and agility to the wondering farmers who followed them. On one occasion Professor Baldwin jumped into three feet of water, and in consequence of the mishap was beheld, when he emerged from the nearest farmhouse, in garments other than his own. He, however, convinced everywhere a minute and accurate acquaintance with agricultural matters, which, in combination with the learning

and urbanity of the President, and the quick practical intelligence of Mr. Ross, must give special value to the decisions of the second Sub-Commission.

The two gentlemen were not back at Belfast until four o'clock, and it became impossible to visit Mr. Tennent's estate at Dundonald, in County Down, as had been originally intended, by daylight. The indefatigable Professor, however, chartered one of the six hansoms of Belfast, and went out five miles to tell the representatives of Mr. Tennent, and the farmers who had assembled to meet the Court, that the visit of inspection must be delayed until next morning. This act of thorough courtesy would of itself have made the Professor popular in the neighbourhood, but the people have now still better reasons to bless his coming. I took the opportunity yesterday of examining closely two of the farms on this property of Mr. Tennent, being accompanied by the agent, Mr. Fox, and by the occupiers. One may say, with respect to the four holdings in question, that there was no uniform quality of cultivation. Some fields were more effectually drained, and some patches better kept than others. The holding of Robert Cooper is on one of the Holywood slopes. From the dirty broken loop road or lane running into the highway, it ascends in a long strip over the hill, at a gradient of perhaps one in five, a neat little farmhouse dividing it from the loop road. It covers about nineteen and a half statute acres, of which one is laid out as a market garden near the house, for growing celery, carrots, cabbages, Brussels sprouts, potatoes, and mangold wurzels. By the side of the farm road were a plough and grubber of the latest construction. A slender streamlet runs murmuring down the declivity in a glen or ravine, clothed with thorn bushes and water plants. By the side of it we walked to a large field of about four acres. From this a crop of oats had been recently taken. The soil was wet and poor, of a sandy loam character, with red indurated subsoil. Surface water had collected in some places, and no one could doubt that it was insufficiently drained. The downfall was quite enough to carry off any quantity of water, and effective drainage is so easily done

either with sods, stones, or, better still, large ashes, that there can be no excuse for such a state of things, especially as stones are easily procurable in this neighbourhood. The surface of the field, moreover, was foul with couch grass and other weeds. There are several fields on the estate treated, or rather neglected, in the way. On the other hand, there is land, as in the case of Mr. Shepherd, another of the tenants, which has been skilfully drained and worked; and in the case of Cooper it should be remembered that he is eighty-one years of age, and has only a single 'hand' to help him in labouring his plots. The old man told the Court on Wednesday how he had managed barely to subsist on the old rent of 18*l.*; but that on the very first gale after it had suddenly been raised in 1875 to 30*l.*, he had been compelled to sell his best cow to meet the payment. Since then he had met recurring gales by borrowing, or selling stock. Only the day before, he had received a letter from his son in Australia 'with a ten-pound note in it,' which he had already remitted to the agent. He was obliged to work in the wet, he said, with broken boots; and the only flesh he could ever eat was a little American bacon, now and then. The result of the investigation by the Commissioners into his case has been that he will now have to pay but two-thirds of his previous rent, and that he may perhaps be able, for the future, to sit by his fireside on wet days, and rest his old bones.

At a little before ten o'clock this morning the Sub-Commissioners took their seats upon the bench, and delivered a judgment, or rather award, in the cases of Arohdeacon Crawford's tenants, at Carnmoney, which, as the deliberate act of a strong Sub-Commission, fully aware of the responsibility cast upon it, is likely to create some excitement among the landlords. That it was deliberate, and by no means intended as a sop to agitation, was made abundantly clear by the decision given later in the day, in the cases of the Dundonald tenants. It will be seen that the average percentage out off the old rents is about what I have from the first maintained to be probable in these cases—namely, 25 per cent. The first batch of cases, as already mentioned, were from th

estate of the Ven. Archdeacon Crawford, at Carnmoney, about seven miles to the north-west of Belfast. The real proprietor is his wife, who is owner for life. In 1842 the trustees executed leases of the farms for twenty-one years to the fifteen holders at comparatively fair rents. The Archdeacon then went to labour in Australia, leaving the control of his estates entirely to Mr. Macauliffe, his agent. This gentleman bears the character of an honourable and upright man; he certainly is very fearless and outspoken. He admitted in Court that he had not seen the landlord for twenty-six years; that the landlord had not spent a shilling upon the property; and that if the tenants had declined to pay the increased rents ultimately put upon the property they would have been evicted. In 1866, after the determination of the leases, Mr. Macauliffe, by the directions of Mr. Andrew Crawford, the Archdeacon's brother, employed two valuers to go round and revalue the estate. The result was a very large raising of rents, causing great suffering and discontent among the tenants. One valuer is still alive, but he was not called as a witness, and this omission evidently weighed very seriously with the Court, which is presided over by an experienced lawyer and advocate. The evidence, however, of such valuers as were called was singularly confused, and even contradictory. Much commotion was caused by the pertinacious attempts of Professor Baldwin to make each of these experts point out the steps by which he had arrived at his conclusion; and at last Mr. M'Mordie, the tenant's solicitor, showed genuine signs of alarm, and vehemently asserted that the task of explaining or analysing a course of reasoning, could not fairly be imposed upon Ulster valuers, and that it had never been put upon them even by the much-abused County Court Judges. Thus baffled, the Professor was driven to the plan of the complete and searching valuation which he, from his special experience, has been able to effect, but which may not be possible or advisable in the case of every Sub-Commission. The great point for the landlord, however, in the cases of Archdeacon Crawford's tenants, was that the improvements on the land having reverted to him upon the expiration of the leases, he



had merely relet them, and was still in the eye of the law the owner of them as well as of the land. Mr. Greer, in giving judgment upon this point, prudently avoided giving any reasons for the decision. Professor Baldwin, a layman, has frankly avowed his reasons, and whether his plain avowal will help or injure the tenants' cause on appeal remains to be seen. The Professor, of course, rests his view of the Act upon the famous 9th Sub-Section of the 8th Clause, which enacts that 'no rent shall be allowed or made payable in any proceedings under this Act in respect of improvements made by the tenant or his predecessors in title, and for which, in the opinion of the Court, the tenant or his predecessors in title shall not have been paid or otherwise compensated by the landlord or his predecessors in title.' If the Professor's reading be correct, then this clause practically transfers a large amount of visible, tangible property, capable of being specifically identified and traced from the landlords to the tenants from year to year, in every case where the improvements have been made by the tenants or their predecessors in title during the currency of a lease which has expired. There can be little difference between saying that a mill is not a man's property and saying that he shall never receive any rent for it. The one difference is that the supreme landlord of all may suffer. I was rather surprised that the landlord's advocate in this case did not call attention to the strange position of the Marquess of Donegal, from whom Archdeacon Crawford's wife holds the estate at a fee-farm rent. Ought not the Marquess, as a 'person having an interest,' to have been served with notice of the proceedings, under Rule 48? It is easy to imagine cases where the chief security for the fee-farm rent may be the rent received in respect of improvements by the immediate landlord.<sup>1</sup>

The facts of the next case were very similar. Mr. Tennent, the present landlord, was not responsible for the sudden and unreasonable raising of the rents, which took place during his

<sup>1</sup> The Commissioners have since issued a rule, requiring service of notice upon the landlord, in such cases.

father's lifetime.<sup>1</sup> The names of the tenants, their valuations, and the different rents are as follows:—

*Archuleacon Crawford's Estate.*

Tenant	Valuation	Old Rent			Present Rent			New Judicial Rent, for 15 years		
		£	s.	d.	£	s.	d.	£	s.	d.
A. S. Campbell . . .	6 0 0	5	15	0	9	4	4	6	8	9
J. Joseph Bell . . .	45 15 0	37	0	0	50	0	0	36	12	4
Robert Herron . . .	23 0 0	24	5	0	38	9	0	26	13	11
Margaret M'Allister .	15 15 0	13	15	0	23	17	8	16	11	2
J. M'Crum . . .	41 0 0	47	0	0	60	0	0	48	3	5
John Thompson . . .	20 0 0	22	0	0	32	15	4	24	16	5
Thomas Lyle . . .	53 5 0	50	10	0	65	6	4	50	2	11
George Kidd . . .	11 15 0	10	10	0	17	17	0	12	5	6
Samuel Lyle . . .	42 10 0	47	0	0	67	3	8	52	16	11
Alexander Porter . .	19 0 0	20	5	0	29	14	0	20	16	10
Joseph Williamson . .	44 0 0	38	10	0	71	5	0	49	3	0
Robert Kennedy . . .	11 10 0	10	10	0	16	16	8	11	18	10
Eliza Campbell . . .	87 15 0	75	15	0	122	18	10	59	17	6
William Williamson . .	5 0 0	4	0	0	4	2	6	4	2	6
John Lindsay . . .	19 10 0	23	15	0	32	6	0	23	4	6

Average as shown in Griffith's valuation, 431s. 3s. 30p

	£	s.	d.
Griffith's valuation, excluding buildings . . .	387	5	0
Poor-law valuation, including buildings . . .	446	1	0
Rent prior to 1866 . . . . .	420	10	0
Rent since 1866 . . . . .	640	17	4
Judicial rent . . . . .	473	14	6
Reduction . . . . .	168	2	10

In the revised rent the landlord pays half the county cess, equal to 1s. in the pound.

*Mr. Tennent's Estate.*

Tenant, Robert Cooper; old rent, 18l.; present rent, 30l.; valuation, 27l. 10s.; judicial rent now fixed for fifteen years, 20l. 13s. 1d. The following shows the aggregate result on the property:—Old rent, 89l. 10s.; present rent, 116l.; valuation, 96l. 10s.; judicial rent, 91l. 11s. 6d.; reduction, 24l. 8s. 6d.

These decisions, it need not be pointed out, are practically conclusive upon the chief question of all. Henceforth the

<sup>1</sup> The facts of this case are reported in the Appendix.

race of rack-renters has ceased to exist. It was curious to notice that in the first group of cases the Commissioners would give the tenants no costs. Mr. M'Mordie, with much ability, and even eloquence, remonstrated against this ruling, and in the second batch they were allowed; although it cannot be said that any fact was proved upon which a distinction could be drawn between the first and second batches. The great and obvious objections to refusing costs to successful tenants, unless they have first tried to arrange matters at the agent's office, is that it puts it into the power of an unscrupulous agent to cheat the tenants out of part of the full measure of relief intended for them by the Legislature. The greater the excess of the rack-rent over a fair rent, the better chance has the agent, by skillful bargaining, still to maintain the rent something over the fair amount. On the other side, it is obviously inhuman to cast the costs of perhaps five hundred successful tenants upon one unfortunate landlord, costs which are immediately recoverable at law; especially when it may happen that he may have received little or no rent for many years past.

## CHAPTER XIV.

*THE CORK BUTTER TRADE.*

DUBLIN: Monday, November 7.

THE labourers and workers employed at the Cork Butter Exchange struck work on Saturday, and this important branch of industry was paralysed for the day. No prices were issued for the ordinary salt butter market, so that the whole trade is thrown into confusion. Over fifty men are employed in the rough manual work of the concern; classified as salesmen, branders, boring men, and the like. Their wages range from fifteen shillings to one pound six shillings per week. Last year it was found necessary, in consequence of the general dearth of business, and the short receipts of butter, to reduce the wages of the staff by 10 per cent. all round. They worked at the reduced rate up to July in the present year, when they agitated for a return to the old rate. This was granted; but they recently applied for what the men call the 'Back money,' which would represent the accumulated deductions of 10 per cent. during the time they were on the reduced wages. The Committee of merchants refused this application, and hence the strike.

This strike is of importance as bearing upon what constitutes a real farmers' grievance in Ireland. For many generations the chief industry of the people of Munster has been the making of butter. The climate in the South of Ireland is temperate all the year round; there is plenty of rain—too much, perhaps, for those who have not pasturage—and the soil, lying chiefly in gentle slopes, easily drained, is of the consistence and quality requisite for the production of rich, sweet milk. Until some twenty years ago Irish butter was in

great demand in the western countries of Europe, and was sent by sea to distant colonies, in all parts of the world. During the last twenty years dairy farming was highly developed in the Southern Irish counties; and the consumption of butter in every civilised country has at the same time vastly increased. Yet the great trade that once flowed out from Cork has of late been steadily diminishing in volume, and French, Danish, Dutch, and American butter of an inferior kind engrosses the great markets. It may be worth while, at a time when so many Irish patriots are advocating the encouragement of native manufactures, and when every person employed upon the land must receive so much aid and benefit through the provisions of the new Land Act, to consider the causes of the decline in the Irish butter trade, and the remedies suggested for the evil—especially as what has to be said on the subject will throw a side-light on some of the causes of the strike which now paralyses the great Irish Butter Exchange.

It appears that the great bulk of the butter produced in the South has always been brought to Cork by the farmers, to be there sold and exported. A sufficient reason for the existence of this market was that Cork lay in the very centre of the dairy farming district, and was close to the sea. At the beginning of the century, and before the application of steam power to commercial operations, the right to an exclusive market for butter coming to Cork was given to the Corporation; but ultimately this right became vested in an Association of merchants, who now by custom enjoy the privilege of receiving and testing all the butter which is sent to the city. The Association consists of about fifty brokers, to whom the country farmers consign what they make, each farmer having but one broker. The butter is delivered at the Cork Butter Market early in the morning, in quantities varying from five hundred to two thousand firkins daily, the busy season being in October. Inspectors are provided to test the quality of each caskful; and according to their decisions the casks are branded with a mark, dated April in the year of examination, and showing the quality of their con-

tents—whether first, second, third, or fourth class—with an extra classification for the ‘mild-cured’ variety. The branding being finished by about ten o’clock, the buyers or exporters come into the market, and in a very short time the whole of the stock is purchased by them from the brokers. It is then removed to the exporters’ warehouses to await shipment.

Now, this system at first sight seems simple, and fair to all parties concerned. It is, however, worked under a set of rules which are not only antiquated, unnecessarily stringent, and oppressive to the exporters, but which tend effectually to keep down the profits of the farmers. The market is a close one, and the object of the rules is to maintain the present system, whereby, it is said, very large fortunes are made by brokers and buyers, at the expense of the struggling agriculturists. One of these rules (they are all, by the way, made and enforced by a Committee of the brokers) is, that no person is allowed to enter the Cork Market, either to buy or to sell, until he has signed a bond restraining him from shipping any butter but what has been packed in the unwieldy old-fashioned firkins. The firkin, moreover, must have received the official brand already described. The penalty is a fine of ten shillings for every firkin shipped which has not been so branded, with the alternative of exclusion from the market. The exporters, therefore, have to purchase, without examination, goods which have been marked by persons entirely ignorant of the requirements of the different foreign markets, as to colour, salting, packing, and so forth, and who reduce all imaginable varieties into two or three classes. No matter, for example, that an exporter may have a large order for highly-coloured butter for London—where pale butter, produced on lime soils, is regarded with coldness—he will thus be baffled, in attempting to satisfy his customer, by a most ingenious system of checks.

The brokers having all the butter in their own hands, it is obviously to their advantage to clear the market daily, even of the coarse, over-salted, sour, or watery specimens which may be included in the show. They, therefore, fix a price for the ‘first’ quality, calculated on the average of the prices paid for that quality on the previous day. The exporter, perhaps

knowing that the particular butter he wishes to buy has fallen to a certain broker, offers him, let us suppose, an advance of two shillings per firkin over the market price for 'firsts.' Immediately a crowd of other brokers clusters round the maker of this offer, and each cries 'I have some firkins of "firsts," which you can have at the advance price.' And then, unless the unhappy man will buy all the 'firsts' in the market, good, bad, and indifferent, at the price which is only appropriate to the finest kind, he is not allowed to buy the few firkins he wants at the advanced price he has tendered. The advantage to the brokers of this course of dealing is apparent at a glance. It ensures to every one of them the sale of inferior 'firsts' equally with the more valuable varieties; and it is notorious that some brokers—said, however, to be not very many in number—have always inferior 'firsts' on hand, and but for this rule would suffer well-merited losses. The disadvantage to the farmer is equally apparent. Butter which has been 'slashed'—that is, over-salted to a considerable extent—will still pass the inspectors, and, as I have said, the butters originally of inferior taste and quality will necessarily be classed with the finest. A farmer, therefore, has no reason for taking pains to make the very best. If he can disguise the defects in his butter with a quantity of salt and water, for which salt and water he receives a shilling a pound or more, that is quite enough for him. The idea that he may injure the reputation of Cork butter probably never enters his head at all.

The brokers, of course, have nothing to complain of. To make sure of their trade they combine with it the practice of lending money to the farmers, to stock their holdings, pay their rents, and for other purposes. The method adopted is the following. If the farmer wants to borrow 100*l.* he signs a document binding him to repay it, with interest sometimes amounting to 10 per cent., by consignments of butter. When he has reduced his debt to 90*l.* by sending in 10*l.* worth of butter, he is nevertheless obliged to go on paying interest on the original 100*l.* until it is all paid off. One broker is said to lend out 80,000*l.* a year in this manner. The profits of the

brokers, indeed, are added to at every turn. They benefit by, first, compound interest on their loans; secondly, the rebate; thirdly, a profit on the firkins supplied; fourthly, the market fees, increased by the practice of scraping off each keg, without payment to the farmer, three or four ounces of butter; fifthly, brokerage of 1s. 8d. per cwt.; sixthly, the 'canting currency' system, by which an advantage in the broker's mode of payment to the farmer is secured; seventhly, the broker may sometimes be able to sell an occasional barrel of poor butter at higher than market prices; eighthly, he may now and then hold the butter over till next day, or even keep it back for a month, and so realise better prices; ninthly, he may be also an exporter, and thus have an interest directly opposed to the farmers. Now, I wish it to be understood that a great many of the brokers, being men of honour and standing, are not chargeable with the tricks of the trade alluded to; but the practices complained of exist, and produce almost as much mischief and discredit as if they were general.

The exporters, in some cases, in order to evade the regulations, have been driven to establish secret warehouses, in the names of other persons, for the purchase and storing of unbranded butter, their own premises being liable at any moment to the visits of private detectives, or, as they are called, inspectors, employed by the Market Committee. It is not wonderful that this mode of evasion is resorted to, when it is remembered that the trade is now practically restricted to England, and that even there it is rapidly diminishing. In many places the private brands of responsible Irish butter exporters are preferred to the Cork brand; and this suggests one much-needed reform, namely, the abolition of the annual branding, conducted as it is on obsolete principles. Upon this subject it should be also observed that at present, under the market brand system, there is a great encouragement to speculative as distinguished from natural trade. If an exporter has a thousand kegs of 'firsts' in October which he bought in the previous April he may sell all this butter, deteriorated as it will be by keeping, at any moment when high prices are obtainable; and will have as good a chance of



finding a customer as his neighbour who has just bought a number of kags of perfectly new butter, but likewise bearing the April brand. It follows that the smaller English dealers, disgusted with the semi-rancid grease which turns up now and then bearing a Cork brand, will have nothing to do with butter so marked; and those dealers who inquire for it are generally large wholesale houses, buying for purely speculative purposes. Another result is the establishment of a number of local markets, at such places as Kilmallock, Mitchelstown, Bruff, Newcastle, Trillick, Rathkeale, Killorglin, Listowel, Shannagheden, Kilfennan, Limerick, Tipperary, and Waterford. There is doubtless room for the existence of some of these markets—for instance, the one at Trillick; but the general effect is that the farmers are induced to send the pick of their best butter to the local market, where they obtain from the few buyers attending it a little more, perhaps, than the Cork Market price, less the brokers' charges, but still a great deal less than their butter is actually worth, and would bring, if the great market in Cork were more skilfully organised, and if enterprise were not strangled by old regulations utterly unsuited to modern trade.

The following suggestions, with a view to remedy the evils that have brought about the decay, and may accomplish the ruin of what ought to be one of the most profitable and flourishing of Irish industries, may perhaps be considered worthy of attention. Now that the Land Act has conferred an additional value on the dairy farmers' holdings, the Banks, it seems, are willing to lend the farmers money for their business on easy terms; and so they need not any longer, whenever they want a few pounds, go to their butter broker. They would, it is true, find it harder to borrow money from the Bank for useless extravagance, unconnected with farming operations, than from the broker; but that can hardly be put forward as a grievance. The Cork Butter Market must be thrown open, every farmer having access to it to sell, and every exporter to buy, free from all the vexatious, antiquated rules which are now in force. The farmers would probably find it most convenient to pay a certain toll for each firkin sold, and thus the market expenses would be met. The

official brand should be abolished, and every exporter allowed to affix his own. The brokers, or middle men, would, of course, in that character disappear; but with their connection and capital they might easily join the ranks of buyers, paying their old customers, however, very much larger prices. The farmers who really produced the best butter would, under this system, be rewarded with the highest prices, and a healthy stimulus would be thus administered to the trade throughout Ireland. Another result of the creation of an open market would probably be the realisation of Canon Bagot's dream of a complete factory for the preparation, on scientific principles, of such fine Irish fresh butter, by machinery, for the London market as ought, if properly packed, to beat every other kind of butter out of the field. In fact, Munster should pursue the policy adopted with such remarkable results of late by Holstein, from which the best of the so-called 'Danish' butter comes. Two-pound and four-pound lumps, fresh from the churn, wrapped in spotless muslin, lying cool and fragrant in pretty baskets and boxes, could be delivered from Cork to the dealers in London every morning within twenty-four hours of their being sent out, at a cost for carriage of one halfpenny per pound. One firm in London takes twenty tons a week of fresh butter from Normandy; and there is no reason, save the bad methods of preparation and packing now in vogue in Cork, why the farmers of Munster should not supply that and many other firms, at a lower cost, and yet earn a handsome profit on the transaction. Then again the consumption of butterine is extending and increasing in all the great towns in England and Scotland; and some buttermen who formerly would not keep it, can now with difficulty dispose of anything else. None of the foreign butters, however, or of the substitutes for butter sold in the English towns, have any chance against the pure, fresh product of the rich pasture lands of Munster. The following extract from a letter written a few days ago by a London firm, paying every month twenty-six thousand pounds sterling to French farmers for their butter, is of obvious interest in connection with this question:—

‘We have received some small consignments of butter from persons whom you have kindly recommended. We have seen enough of the butter to convince us that really finest quality butter can be made in Ireland; but what is wanted is a business or factory, established in the heart of the country where fine butter is made, to take it up and put it into proper form and shape, and forward regularly to the London market, instead of coming in at unknown times, in odd quantities of a firkin or two here and there. We want to depend on regular supplies, in fifties to hundreds of casks daily. We should then establish a regular connection and trade for this butter.’

It is curious that this real Irish farmers’ grievance has never, so far as one can discover, been brought forward in the Imperial Parliament, where so many patriotic spokesmen of the Irish Agriculturists sit.

## CHAPTER XV.

*THE COURTS AND THE COUNTRY.*

DUBLIN, Thursday Night, November 10.

HITHERTO the landlords have certainly not held their own before the Courts of First Instance. It was generally believed by the tenants that the Assistant Commissioners would do greater things for them than the County Court Judges—those aggravatingly precise and pedantic expounders of generous legislation—could be expected to do. The simple faith of the tenants has been already justified. It was not to be expected that gentlemen who were notoriously appointed to their offices upon the assumption that the existing scale of rents was too high, would stultify themselves by approving it, and straightway affixing their brand-new seal to it. But the landlords were not altogether prepared for the ‘leaps and bounds’ executed by successive Sub-Commissions over venerable doctrines and maxims of the law. Sub-Commission No. 1, at Castleblayney, reduced a rental by a considerable amount, but refused costs, on the ground that the tenant had not, like an honest man, attempted to obtain lower terms from the agent before taking advantage of the Act. At Belfast, also, a large reduction was ordained in the rental; the ruling about costs was arbitrarily broken through, and two very staggering decisions upon points of law were recorded against the interests of landlordism.

The Limerick Commission was late in the field. It was presided over by a Queen’s Counsel of established reputation, and the astonished landlords, plucking up a little courage, applied a portion of their capital in commissioning another

Queen's Counsel of established reputation to go down and keep him in order. The result must have painfully disappointed, but finally convinced them. Mr. Haright, the tenant before the Limerick Commission, had the enjoyment of some excellent meadow land, so near to Limerick that it would popularly, although incorrectly, be described as a 'town park.' During a decade he industriously cut hay twice a year, never attempting to interfere with the original fertility of the soil by the newfangled invention of manuring; and upon the passing of the Land Act he was the first man in Court to claim a substantial abatement of the rent. In his case the Commissioners doubled the reduction effected by the Belfast Commission in the rents payable by the wretched tenants of Archdeacon Crawford and Mr. Tennent; and they are thus, until new Sub-Commissions have an opportunity of relieving the oppressed tenants, the heroes of the hour.

The moral effect of these earlier decisions is partly to be looked for in the action of other Sub-Commissions, but chiefly in the attitude thereby produced towards the Land Court in the minds of the tenantry who have not yet come in to have a fair rent fixed. Such prizes as these at the first turn of the judicial wheel will inevitably set the whole nation gambling. The demoralisation of the rent-paying masses, already effected by the teaching of the League—an evil which I have myself heard high dignitaries of the Catholic Church acknowledge and deplore—will lead every man of them who has a spice of Irish adventurousness to try his luck. Already there are over twenty-two thousand applications recorded, and by the 12th, the last day allowed as the 'first occasion' of the Court sitting, a prodigious increase in the number of these proceedings may be expected.

I have been shown a letter, from which it appears that a large number of tenants were about to rush into Court under the impression that all possible benefits to them under the Act would be for ever abandoned by delaying their resort to the Commission after the 12th. It is a remarkable fact, for which I can vouch, that since the arrest of the promoters of the test-case system the number of applications from certain

counties deeply steeped in Land-Leaguism—for example Clare—has largely increased. The proportion of the total number of cases, however, still remains very much what it was when this subject was last adverted to.

At the same time, it is rather discouraging to hear that Tipperary and Cork, which counties Mr. Egan would probably consider patriotic *par excellence*, are still hanging back. The reason of this symptom is not far to seek. In these counties terrorism prevails to such an extent that violence on the part of the terrorists is almost unnecessary. The following intimation, which has just been served upon the tenants of a southern estate, is copied from the actual document found by one of them under his door. It is written in a feigned hand, the nouns occasionally dignified with capitals, and the whole unpunctuated:—‘Take Notice.—Any man of the townland of — that will pay his rent without consulting his neighbours will be visited by Captain Moonlight.—From a Galtee boy.’ The service of this document was perfectly effectual, and a copy of it from each tenant was all the rent that the agent received on his rounds last week.

I have just received the answers of a number of well-informed agents in various counties to certain questions bearing upon the state of the country. These gentlemen manage properties in all the disaffected or disturbed districts in Donegal, Mayo, Galway, Clare, Limerick, Cork, Tipperary and Waterford. The substance of the answers given may be thus epitomised. A few landlords have, in consequence of the action of the Government in arresting Mr. Parnell and his colleagues, received rents which they believe they would not have done but for those arrests, and they are correspondingly grateful. A much larger number have received no rent, neither do they expect to get any; and they attribute their misfortunes, first, to the long delay of the Government, whereby the influence of Mr. Parnell grew into something invincible; and secondly, to the irritation produced by the execution of the arrests at the very moment when the tenants had in their pockets the means of revenge, namely, the proceeds of the harvest not yet paid over. It is admitted

that Mr. Gladstone's intentions were good; but the landlords appear to regard him as the hermit in the fable looked upon his faithful bear, which waited till a troublesome gnat settled upon the nose of his sleeping master, and then annihilated the insect and the organ together with one tremendous but ill-timed blow. Little effect is, however, as yet, attributed to the 'No Rent' manifesto in stopping the payment of the sums due.

In some parts, it seems, secret meetings take place between small numbers of Leaguers; but it is obvious that these may well be of a harmless character, brought about by the instinct which moves men afflicted with a common misfortune to sit together and bewail their sad case. But these meetings are certainly significant in one or two instances in which they have been accompanied by actual threatenings to those farmers who were reasonably suspected of an intention to pay their debts. It would appear from all accounts that the number of malcontents is very small, and that they are not usually connected with the place at which they meet. Indeed, it is questionable whether more than one or two of the threateners and outrage-workers are at present deprived of their much-abused liberty. But it is obvious that a single outrage, like the murder of poor Leary near Mallow, must send a shiver of apprehension over an entire county. It is an argument with those who would maintain the ancient institution of capital punishment, that ten executions a year keep twenty millions of Englishmen from doing what the culprits did; and in the same way two or three murders of rent-paying farmers are quite sufficient to deter most of their fellows from following their example. I may say that I know, in some cases from their own lips, coupled with close observation of their characters, that to the leaders of the Land League movement any outrage committed either upon man or beast, for any cause whatever, is as abhorrent as it could be to Mr. Bright himself.

The expectation expressed upon a former occasion, that a number of landlords would, upon the sitting of the superior Courts, commence proceedings for their arrears, has been

unfortunately fulfilled. Large numbers of writs have been issued already; the Emergency Committee and the Property Defence Association are making ready for sharp work, and the natural results in ill-feeling, rioting, and violence may be looked for. The landlords apparently have nothing to expect in the way of compensation from Parliament. The fact that no statesman of importance has declared any intention of pressing their claims to reimbursement, or a kind of 'general average' payment, in the legal sense, by society, for the peace of the realm, which their losses are to ensure, is a sufficient discouragement to them. And upon this comes the decision of Professor Baldwin, that the value of a holding, in the hands of the existing tenant, whether lame, infirm, idle, or drunken, it will be just the same, is all the Court has to consider in fixing a fair rent, and not the potential fertility of the soil in the hands of a competent agriculturist. The reasoning of the Professor, who is admittedly a shrewd and keen-witted man, is tolerably apparent. He finds a man an invalid, without knowledge of farming occupation, but entitled by law to a proprietary interest in his farm, and he knows that the man cannot be driven out of the holding, because public opinion, the strongest of all forces, prevents a more capable neighbour from taking his place. The Assistant Commissioner, therefore, making the best of the situation, and remembering that he is an arbitrator, not a judge, fixes a rent which, in Mr. Justice O'Hagan's words, will allow the tenant to 'live and thrive.' Nevertheless, the doctrine laid down may have undesirable consequences. It is hard enough upon a landlord that the misfortunes of his tenant, who by virtue of this decision is assumed to be his partner, should be visited solely upon him, and not, as in ordinary cases, upon the community at large. He may think it unreasonable that he is called upon to pay a tax augmenting with the vices, the ignorance, or the procreantness of his tenant. I saw, the other day, in the south of Ireland, a woman who had borne twenty-one children to her husband. The poor man had a small holding, and was, always, of course, in difficulties. Supposing that her husband gets a fair rent fixed, proportioned to the number



of months he has to feed upon his little patch, he will be immediately asked to sell upon the twenty-one children rental to a sharp fellow without encumbrances, who may thus expect to make a very good thing indeed out of the transaction.

## CHAPTER XVI.

*SURPRISING DECISIONS.*

DUBLIN, Tuesday Night, November 15.

THE four Sub-Commission Courts have now sat for about a fortnight in various parts of the country, administering, each according to its light, the complicated and intermingled principles of the two great Gladstonian Codes of Land Law. The utmost pains were very properly taken to ensure a measure of uniformity in the justice to be administered by the new Tribunals. Meetings were held, questions discussed; but sufficient allowance was not made for the principle of competition, or, shall we say, of generous rivalry in redressing the wrongs of an oppressed people, certain to actuate their Worshipships—for so the Assistant Commissioners are properly styled—at their first setting out. The most fluent, if not always the most learned, member of the tribunal has in each case specially put himself in the forefront of his colleagues, and laid down doctrines which were so stated as to attract and receive both the direct and plunging fire of adverse criticism. In two instances the doctrines laid down have already been withdrawn. Professor Baldwin undoubtedly formulated the principle recently quoted by Lord George Hamilton, from my letter of the 1st inst., that such an accident as the propinquity of a manufactory was beside the question in determining the value of land to the tenant—in other words, that such an unearned increment belonged wholly to the tenant, no part of it to the landlord. The Professor also laid it down in another case, that the value of the holding to the occupying tenant was alone to be considered in fixing the fair rent. This inconsiderate dictum

was, of course, immediately exposed and denounced in the newspapers, and the Professor has been moved to lay down for his future guidance the exact opposite of his former views. He will now, he says, consider, in fixing the rent, the capacity of the land in the hands of a tenant of average ability and skill. Mr. McCarthy, on the Western Sub-Commission, in the attempt to urge an impetuous course through 'the law's delays,' has already stumbled twice and been picked up, not without suspicion of scolding, by the Chief Commissioners. First, as a background to a pretty compliment to his colleagues, he pronounced a condemnation of the entire race of paid valuers. Ignorant, venal, and untrustworthy as some valuers are, there are plenty of men to be had of eminent honour and profound acquaintance with the value of land; and I am convinced, that if this Act is to give lasting satisfaction, such men must be generally employed by the Sub-Commissions, under the power conferred upon them by Section 37. Judge O'Hagan has repudiated the slight offered to valuers by Mr. McCarthy; and, considering the alarm and discontent created among landlords by the awards thus far pronounced, it may be hoped that Mr. Murrough O'Brien, whose duties in the Sale Department of the Commission are at present confined to matters of mere routine, and whose reputation as a valuer is second to none in Ireland, will be entrusted with the formation of a corps of 'independent valuers,' to accompany the Sub-Commissions and report upon the lands in dispute.

Mr. Kane, Chairman of Sub-Commission No. 1, has given a questionable judgment at Monaghan. The facts are these:—In 1878 Peter McIlroy was ejected for non-payment of rent, and the claimant, the son, pending the six months allowed by law for redemption, was allowed to occupy the land. Eight months after the termination of the tenancy the claimant was admitted a yearly tenant, under a new agreement. Now, the 7th Section of the Act of 1881 provides that a tenant, on quitting the holding of which he is a tenant, shall not be deprived of his right to receive compensation for improvements under the Landlord and Tenant (Ireland) Act, 1870,

by reason only of the determination by surrender, or otherwise, of the tenancy subsisting at the time when such improvements were made by such tenant, or his predecessors in title, and the acceptance by him, or them, of a new tenancy. Where in tracing a title, for the purpose of obtaining compensation for improvements, it appears that an outgoing tenant has surrendered his tenancy in order that some other person may be accepted by the landlord as tenant in his place, and such other person is so accepted as tenant, the outgoing tenant shall not be precluded from being deemed the predecessor in title of the incoming tenant by reason only of such surrender of tenancy. The claimant's case was that his father had made improvements; that the father was his predecessor in title, and that he (the claimant) was consequently entitled, under Healy's Clause, to have his rent reduced in respect of such improvements. After confessing that he was not familiar with the Ulster custom, Mr. Kane held that the break in the title was not sufficient to destroy the right of the tenant. Now, although the case was a hard one, and not even the landlord can seriously grudge to the claimant the benefit of his father's labours, I observe that in Mr. Kane's own work upon the Act of 1870, the following case is noted:— 'Where the father of the claimant held the holding under a lease which expired while the claimant was in possession, and afterwards the landlord made a new express letting to the claimant, that the father was not a predecessor in title of the claimant.' The judgment in this case was upheld on appeal, and is still law: and in any event it is obvious that the learned Assistant Commissioner's written and spoken opinions do not agree.

But the most surprising judgment of all has been promulgated to-day by the Southern Sub-Commission, sitting at Limerick. James Blake sought to have a fair rent fixed for a holding of tillage land, under Lord Clarina, situated in the county Limerick. The acreage amounted to about thirty-eight statute acres, the valuation was 41*l.*, and the rent 52*l.* 11*s.* The letting was first made so long ago as 1827, at 60*l.* per annum. This was paid by the tenant's father down

to 1837, when it was reduced to 50*l*. In the following year 2*l*. 11*s*. was added to the rent, on account of the tithe-rent apportionment; and from that day to this, a period of forty-three years, the last rent of 52*l*. 11*s*. has been regularly paid. Two houses and offices had been erected, and drains constructed by the tenants; but the landlord had contributed slates and timber, equal to half the expense of building, to the houses, and had allowed for the drains. The evidence showed that the land was worth even more than the sum which had thus been paid, without question, for nearly half a century. The Sub-Commission, however, reduced it, without calling in question the conduct of Lord Clarina, to the level of the valuation, namely 44*l*.

The consequences of this alarming decision to the unfortunate landlord must be most serious; but the principle established is of infinitely greater importance. It was hinted by the Ministry over and over again, when the Land Bill was passing through Parliament, that only rack-renters were aimed at by the measure. No one supposed that a rent acquiesced in, and paid for generations, was to be arbitrarily cut down by a sixth, and a landlord's income correspondingly diminished by similar reductions in the rents of his remaining farms. Only the other day a statesman of the highest reputation for sagacity—a quality conspicuously evinced in the timely sale of his Irish estates as soon as he had them at his disposal—calculated that over two-thirds of Ireland rents had not been raised for many years, and therefore would not be lowered. It is now evident that all such calculations must be flung aside, and the landlords must face the unpleasant fact that their fortunes, and in very many cases their livelihoods, are at the mercy of the first roving Sub-Commission that may approach their domains, each Commissioner, moreover, burning to distinguish himself as a redresser of agrarian wrongs, and armed with the utmost powers the law can confer.

Another question suggested by this decision is the effect it will have upon the tenants who have not yet come in. Seven Sub-Commissions are now appointed, and more are expected

to be formed; but twenty will not suffice if these awards be upheld on appeal. An appeal has already been lodged in the case referred to, and it is now settled that the Commissioners, who are most anxious that their representatives shall not overstep the scope and province of the Act, will make every arrangement in their power for speedily rehearing all important cases. I may here state in the most positive manner that the suggestion, to the effect that the Commission had packed the lists with the earlier cases, with a view to securing opportunities for large reductions of rent at the opening of their business, is entirely baseless. The manner in which the charge was made has caused much pain; and the slightest inquiry into the necessary method of procedure, would have shown that the supposed shuffling of applications was impossible. Applications continue to pour into the Commission offices, although in diminished volume. It is clear that even the augmented staff of Assistant Commissioners is quite inadequate to deal with the enormous number of cases now entered, in every one of which the applicant will demand a separate hearing and argument. There is one plan by which much difficulty, expense, and time might be saved. The Government might advise the Lord Lieutenant to appoint a sufficient number of the County Court judges to be temporarily Assistant Commissioners under the Act, and associate with each of them, in order to recommend them to the confidence of the people, two Assistant Commissioners—not mere assessors, but possessed of equal power. One great advantage of such a plan would be that each Sub-Commission, so constituted, would have at its head an experienced judge, accustomed to the working of the Act of 1870. He would certainly not commit any of the errors attributable to some members of the existing Sub-Commissions, and at the same time, if he took an unduly technical or harsh view of a case, he would be overruled by his two colleagues.<sup>1</sup>

It does not yet appear that much rent is coming in. From inquiries made of certain gentlemen well qualified to judge, I

<sup>1</sup> This suggestion was, I believe, considered by the Law Officers of the Government, and pronounced to be hardly in accordance with the Act.

can say that outside Ulster, but a small proportion, certainly not a tenth, of the autumn rents has been paid. On estate after estate there is the same story. The tenants demand large reductions; the agent, being without authority, declines to allow them, and the result is that no rent at all is received. This is the account heard from Galway, Kilkenny, Cavan, Monaghan, Carlow, West Meath, Wexford, Longford, King's County, Kildare, Waterford, and even Dublin. Affairs are rather better of late in Sligo, Roscommon, Mayo, and parts of Longford. The following, copied from a document, has just been received by a Galway agent:—‘Sir,—We, the undersigned tenants of —, the townland of —, expect you will exercise your influence with our landlord in our behalf to obtain for us a fair reduction of our rents; otherwise we must have recourse to the Land Commission Courts.—Nov. 12.’

A lamentable tale of outrages comes in daily from the south and south-west, and the district about Mallow is again infamously distinguished in this respect. There is only one remedy for such deeds as are commonly done in that part of the country. If any feature of Government, even one so venerable and sacred as Trial by Jury, be set at naught and perverted, to the danger of the State, it must be supplemented with something more effectual.

## CHAPTER XVII.

## 'ENGLISH-MANAGED ESTATES.'

BALLINA, Friday Night, November 18.

MR. J. G. M'CARTHY and his colleagues have hitherto ruled uninterruptedly in favour of tenants. From one rent they have struck off thirty per cent., from another fifty, from another sixty. But a claim for reduction of rent was made on Wednesday, which it is certain no existing Sub-Commission would have entertained, and which the most audacious Parliamentary patriot—unless, perhaps, it were Mr. Biggar, in an obstructive moment—will hardly include in his *répertoire* of grievances. Mr. Beresford Taylor, returning from Australia, in 1871, with a taste for farming, and a certain amount of capital, took from the Earl of Arran a farm of about 112 acres, situate at Raheens, near Killala, in the county Mayo, at a rent of 57*l.* 10*s.*, the valuation being 28*l.* 10*s.* The peculiarity in the case was that all the improvements on the farm—that is, all those works and constructions not resulting from ordinary and necessary farming operations, which confer an additional, and at least to some extent, enduring value upon the holding—had been effected and kept up by the landlord. The interesting question of English-managed estates, which was for so long and with so much heat debated in Parliament, was thus, for, I believe, the first time, raised under the Act. The provision relating to this point is contained in the 4th clause of Section 8, and it requires, in effect, that the improvements shall have been made and maintained by the landlord, and never acquired by the tenant. If a case be made out by the landlord sufficient to call the clause into operation, the Court may disallow the tenant's application to fix a fair rent.



The clause is, by the way, open to the observation that it leaves a rack-rented tenant upon whose holding one or two petty improvements have been thrown together, and retained by the landlord, without due protection. But in the present case there could be no contention of this kind, and the Court gave a unanimous judgment this morning in favour of Lord Arran, in which judgment most lawyers and impartial persons among the audience expressed their entire concurrence.

The facts, shortly stated, were that Lord Arran, having the farm in hand, expended between 1854 and 1864 about 903*l.* in improvements. In 1870 a tenant named Hunter was admitted, and during his possession of the property another 100*l.* was paid by the owner for a new house. In 1871 Taylor took the land, and there was, as the Chairman said to-day, 'no evidence that he was badly treated by the landlord.' Another bill, for the erection of farm buildings, amounting to 172*l.*, was also met by Lord Arran, in addition to which there is one yet to come in for improvements ordered in October last, which he is to pay. It was also proved that the landlord had paid regularly 1*l.* a year towards the Lough Dallah drainage system, benefitting this farm equally with many others. The tenant had done a little draining, and had paid 12*l.* for gates.

Much interest continues to be felt in the decisions affecting Miss Florence Knox's property at Fairfield. The average reduction effected is about fifty per cent. Strange as it may seem, the decisions in this instance have not given satisfaction to the tenants concerned, and for several reasons, among which may be mentioned, first of all, the fatal gift of making pretty, soothing speeches, in which Mr. M'Carthy more than any other Assistant Commissioner excels. Mr. M'Carthy is a man of very imposing presence and the most suave demeanour—a happy mixture, in fact, of Sir William Harcourt and Lord Coleridge. He wears a magnificent robe of costly poplin, and his ample shoulders sustain a cape of fine black velvet; while the proportions of an unusually lofty brow are veiled under the familiar untasselled college cap. The great purpose aimed at in these trappings is perhaps a little obscure

to English eyes. But Mr. M'Carthy believes that by their means he inspires in the minds of the unruly peasantry of Mayo some amount of respect for the law. What Mr. Forster cannot do with all his bayonets, Mr. M'Carthy can effect with a gown of poplin, and a head-dress of mysterious cut. With the same object the learned President, before beginning his judgment in this case, directed his audience not to applaud, even if the decision pleased them. The result of this appeal was that his voice, at the close of the judgment, was drowned in a burst of wild, shrill cheering. In the course of his peroration his Worship, however, pointed out, perhaps by way of consoling the owner of the land, first, that the newly-fixed judicial rents still exceeded Griffith's valuation, and, secondly, that the reductions decreed were less than those agreed to in two cases settled out of Court by the same lady. These observations were duly digested by his auditors; and to-day I hear expressed by the tenants the utmost dissatisfaction as to the awards. One man, Cafferky, I was informed, had already lodged an appeal to the Chief Commission, and the others contemplate taking that step. They are warmly encouraged by their Ballina friends, especially by some of the priests; and as the case is likely to serve to some extent as a guide or standard to other Sub-Commissions in the West and North-West; as disappointment at such sweeping reductions is altogether puzzling; and above all, as no record of the Assistant Commissioners' opinion upon the state of the holdings deduced from their visit to them last Tuesday was set out in that judgment, I resolved to visit them, and judge for myself.

About noon, in a drizzling rain, I mounted a car drawn by a fleet and handsome mare, directed by trusty old Michael, a well-known local charioteer. Opposite me sat an English gentleman who is making a rather hurried journey of investigation, to last, I understand, about three weeks. He will first study fully, upon the spot, the causes of Irish disaffection and suffering; secondly, obtain all necessary information from the different classes of Irish society about the effects of such remedies as have been applied already, and as many

opinions as possible upon the choice of new remedies; and, finally, study generally the essential features of Irish characters and institutions; allowing, I suppose, a week for each subject of inquiry. He was courteous and well-informed, and had in my eyes the excellent recommendation of being a land agent in England for an estate of some thousand acres, and of possessing a practical knowledge of farming. I was, therefore, only too pleased to accede to his proposal to accompany me over the holdings I desired to examine.

It was a day of dreadful weather. The wind blew in gusts all the way. The rain beat steadily down, and grew into a storm towards evening; but in spite of these drawbacks we made a most thorough examination of everything.

The effect of the survey upon our minds was the conviction that no more than justice had been done by the judgments delivered by the Sub-Commission. The whole of the neighbourhood is simply one vast bog, black and hopeless. The country for miles round has been levelled by glacial action, and the surface further lowered by some other natural agency, perhaps volcanic. Through the bog, where it had been cleared down, protruded in some places the ghastly stumps of antique massive oaks, grouped in clusters, as they once stood and waved their arms in stately life and leafy beauty. Here and there over the bog were dotted the low whitewashed stone huts of the miserable tenants whose fathers had squatted some half-century before upon it, and reclaimed it, inch by inch, from the stagnant waters. Round each cottage were two or three little enclosures, carefully fenced in with high mud walls, and the necessary drains. The crops, of course, were taken up, but it was clear that, except in one instance, where a poor man had grown a little rye, the only productions of the soil were oats, potatoes, and a short wiry grass, upon the so-called meadow, which was eaten up by weeds, rushes, and other vegetable pests, in incredible quantities.

The first farm we inspected was Toohill's. The poor man, in his unutterably ragged and loathsome attire, would certainly have drawn a crowd in Drury Lane. From the battered

crown of his hat to the heel of his broken brogues, he was all tatters, and strips, and dirt. His wretched-looking wife trudged after us in the rain a little way, barefooted, bearing a curly-headed boy on her back, swathed in the only shawl she possessed; but she soon went home, and awaited our return. The first field reclaimed from the bog had been used for potatoes. It had about six or seven inches of black wet soil on a rocky subsoil, and might, with proper manuring and sufficient labour, have been made profitable. The oat-field had about four inches of similar soil, but poorer, on a hard sandy-clay subsoil, almost of a rocky character. The grazing land was the poorest and worst I have seen in Ireland. It is true that it was not properly drained. Thorough draining is almost unknown in this district, and any resort to it would infallibly, in past times, have brought down the agent with a demand for more rent. But the tenant had made some rude attempts at surface draining, and every one of his shallow trenches was quite full of water; while it was evident that every yard of the tillage land must have been broken with the spade, for no plough could possibly have been worked upon it. Of the pasture, at least five-sixths were covered with weeds, and such grass as grew could hardly have amused a few geese. The house was a kind of barn, warmed with a peat fire, the smoke of which was partly diffused in the room, and partly sent up an opening over the place of combustion. The furniture was of about the Druidical period and standard of comfort, though a few well-washed plates on a roughly-made dresser looked strangely modern. By the fire was a baby's cradle, and a little room adjoining held the boys by night. All the other buildings and houses, except Cafferky's, were merely reproductions of that which I have described. In all, the land had been saved and reclaimed from the bog, with a patience and persistence which would be admired in the submarine workers that build up coral islands in mid-ocean. In all cases, however, the rent had been raised to an unendurable height—a poor reward for the industry displayed by the tillers—and arrears were the unfailing consequence. Cafferky's holding was drained with far greater skill and success than

his neighbours'. He had the advantage over them of a deep fall, into which he might at once carry his drainage. He had also remained unmarried; he had four strapping brothers and sisters; and he has another farm by which he chiefly subsists. His father and he built the house and outbuildings, raised the fences, and dug the drains, and still they have a miserably small return for their labour. The father, bowed with age, but garrulous, would insist, despite the remonstrances of my companion and myself, on remaining uncovered whilst conversing with us. His son had no sooner noticed this than he himself placed the hat on the old man's head. In that little incident could be seen, I thought, the springing-up of the first-fruits of sixty years' just legislation; the germ of the regeneration of a noble and unhappy race.

## CHAPTER XVIII.

*A COMMISSIONERS' INSPECTION.*

BALLINA, Wednesday, November 23.

As the church bell struck ten this morning Mr. Haughton and Mr. O'Shaughnessy, the inspecting members of the Western Sub-Commission, stepped on to a car at the door of their hotel, both heavily rugged and contorted, after the manner invariably adopted by men who have once taken a day's drive in County Mayo. A black bag was stowed away under the box seat, and their Worships were rapidly driven through the narrow streets of the old town, and over the bridge that crosses the Moy, into the Toberecurry road. Mr. Bentlie, the agent of the estate to be visited, followed on a second car, and the writer, who was permitted to accompany the expedition, brought up the rear. As usual, when really bad weather is brewing hereabouts, the sun shone brilliantly. The country people were, in various places, taking the opportunity of reconstructing their haystacks—ruined by the terrible storm of Monday night—piling up the wet hay into shape again in reckless Hibernian fashion. The road ran for some distance by the Bunree, a winding trout stream which pours its waters, clear as crystal throughout its course, into the turbid flood of the Moy, a short distance below the town. The fields stretched away in different shades of green and warm brown to the sunny slopes of the distant Ox mountains, still veiled at their summits by wreathing clouds. With so charming a view, the way seemed short to our destination, which was the part of Mr. Thompson's estate looking on the first undulations of the Ox range. The owner was brought into Court by

nino of his tenants. It was proved that, during the last twenty-five years, out of a small rental, he had spent nearly a thousand pounds for the benefit of those tenants. Amongst other items, there was a sum of about six hundred pounds paid to them for making an estate road, chiefly useful to themselves. He had also made some fences, and allowed part of the expense of the houses and drains constructed by deserving tenants, out of their rents; which rents, moreover, were not as a rule much above the valuation. The tenants' case was that they had all reclaimed their holdings from the bog; that the different plots were stripped and rearranged in the year 1856; that the rents were then generally raised; that they could not pay the existing rents, being miserably poor; and that, whatever the landlord might have ordered to be allowed to them for improvements, few of them had received more than trifling sums on that account. This may be considered a typical case in the West of Ireland—one in which the 'live-and-let-live' principle can hardly be applied without injustice, or withheld without hardship and even danger.

It cannot be too strongly insisted upon that the success of the new Act in the political part of its working depends chiefly upon the reception accorded to it in the West. The *Knox* cases, which have been last described, were all examples of rack-renting. Mr. Thompson is a rich benevolent man, with thousands of pounds of income which he can spare every year, and his tenants are paying small rents. Nevertheless, they are, as I can testify, unable to pay them, small as they are, and yet to exist decently, as people in a civilised country should; and the old problem of Irish wretchedness has therefore appeared in this case, with all its stern, rigorous conditions unrelaxed by past legislation, and unsoftened by time, for solution by the new Courts.

It will be remembered that Mayo, more than the other counties in the West, has always been first to suck in the poison of dangerous agitations. The people here, amiable enough in times of prosperity, are the most excitable and the least reasonable of any when times are bad. If, therefore, the Mayo peasants are dissatisfied with the Act, it will be easy

for Mr. Parnoll and his friends to find here the nucleus of a new agitation. It was formerly the custom of our English bargees, on purchasing a horse, in view of the exceeding thickness of the animal's skin, to beat unchangingly upon one spot until a tender place had been formed, which was thenceforth kept open for the administration of stimulus to progress when required. And so upon the misery in Mayo agitators have been accustomed from time immemorial to play, in the attempt to drive their country in the paths of sedition; and nothing can be more inconvenient to certain popular leaders, who must sooner or later be released from confinement, than to find that the old grievances of Mayo have disappeared, and that the cultivators of the soil have begun to realise their new stake in the country.

We saw first William Ruane's farm, consisting of rather over thirteen Irish acres, the valuation being 4*l.* 10*s.*, and the rent 5*l.* 10*s.* An oatfield of about an acre was bounded by a stream on one side, and the tenant had laboriously erected a substantial bank of earth to protect his crops from inundation. This was at once noted by the Commissioners. The soil was of a light, black, loamy character, at least a foot deep, on a hard gravelly subsoil. The surface was thickly strewn with stones, and this neglect was observable on every tilled field in every holding inspected during the day. At the same time, the fences were composed of great stones picked by the tenants from their land, and these fences, although uncemented, were wide and strong. The whole of this part of the estate was once bog, resting on the limestone, and has been, piece by piece, reclaimed by successive tenants. Another three-acre oatfield of Ruane's had a shallower soil, on gravel. A potato field was then walked over, the soil and subsoil being of the same description; and we came next to a piece of reclaimed pasture, two acres in extent. The soil, in parts still boggy, was about six inches deep on a very hard subsoil of gravel, but the grasses were of a coarse, non-nutritious character, peculiar to bog partially drained and soiled. The remainder of the holding was a kind of fuzzy heath and morass, on which this industrious tenant



had already commenced the process of reclamation by cutting a deep drain.

Our second visit was to Thomas Rape's farm, higher up the mountain. It was nearly eight Irish acres in extent; the valuation was 3*l.* 10*s.* 2*d.*, and the rent only 2*l.* 16*s.* 6*d.* The tenant had reclaimed the greater part of his holding during the past twenty years. The first step taken was to drain a piece of land, then to pick out the stones and construct fences with them. In the course of this work he had come across numbers of great granite boulders, a quantity of which still lay confusedly mixed together at one point. He could not remove these by any means as they lay. He had, therefore, built turf fires upon each of them, and kept up the flame until the boulders cracked into pieces, which could be dragged away and piled in a heap upon some larger boulders too massive to be thus dealt with. After this, vegetable earth was added, with some seaweed; and the tenant commenced at once to sow potatoes. The soil of the first potato-field was a deep, moory loam. The potatoes, as is generally the case in reclaimed bog, were of a peculiarly white colour. I was here witness to an informal lecture by their Worships, who respectively represent, Mr. Haughton the scientific, and Mr. O'Shaughnessy the practical schools in agriculture. The potatoes were small. 'When did you reclaim this?' inquired Mr. Haughton. 'It's three years gone, your honour,' replied the tenant. 'What did you do the first year with it?' 'I took praties out of it, sorr.' 'What the second year?' 'Praties again, sorr; the land would not give anything else.' The two Commissioners looked at one another, and expressed disapproval of this course. 'Did you lime it?' 'No, sorr; but I put the seaweed on it.' 'Vory good,' said Mr. O'Shaughnessy, 'but you should have mixed guano with your seaweed, and limed it too.' Then followed a short explanation, given in the kindest way, of the right method of treating such soil. At various times during the day I noticed the attempts of the two Judges to impart a little useful practical knowledge of this kind to the farmers; and it was gratifying to observe with what keen and respectful attention the people

listened to their advice. The soil and subsoil in this case were the same as on Ruane's farm. The oats, the tenant said, were weak, and had a tendency to bleach, that is to shrivel up and die after reaching a certain stage of development. It is probable that this effect is produced by the presence of noxious matters in the subsoil, which, when reached by the roots, poison the plant. More thorough drainage, affecting the subsoil itself, together with plenty of lime, easily procurable in this neighbourhood, in order to sweeten the acid soil of the reclaimed bog, would perhaps remedy this evil. It is a serious matter; for an English farmer would have been shocked to see the pitifully small stacks of oats cut from the fields, and the thin, light-headed, empty specimens of ears pulled from them for examination. It is, however, difficult in many instances for a tenant dragging out a shivering existence with his family upon a raft-like patch of firm ground, in the midst of the wide, watery waste, to find sufficient outfall for his drains, even if he were to make them. The draining of these vast areas of bog upon systematic plans, adapted to the conformation and varying level of the subjacent clay and rock, should obviously be effected on a great scale, if at all, either by Government, or by a combination of local proprietors. This method of draining large areas together will, I am convinced, be the first step in the regeneration of the West.

We now drove to the farm of two brothers, Harry and Anthony Melvin, holding in common. It was a farm of about ten Irish acres in extent, exclusive of a portion which the Commissioners went over (when I was with them) on Saturday. It was ill cultivated. One field was foul with the noxious 'buckalan'-weed, and the pasturage was half covered with water from a stream, which might easily have been banked off, as Ruane had banked off the stream upon his lower field. The valuation was 7*l.*, and the rent 7*l.* 8*s.* 6*d.* The brothers were very different in appearance and character. Anthony was a mild-mannered, good-looking man of about thirty. He was, like all these Western tenants, spare of form. I have never seen, in the South or West, a farmer with a double

chin or a paunch. But still, despite his leanness, Anthony was well built, and active. Every year, after sowing his fields, he leaves the care of them to his wife and children, and goes over to the county of Durham. From May until the end of August he gets plenty of work from the English farmers, receiving 4*l.* 10*s.* a month wages, his food, and a bed. He sends nearly all the money to his wife, or brings it back with him for the rent. His brother Harry was a violent, excitable Celt, with angry eyes, red hair, and a high-pitched tenor voice. We had hardly commenced the inspection of the farm before he was quarrelling fiercely with the agent, whom he denounced as a liar. Mr. Assistant-Commissioner O'Shaughnessy upon this brought him to reason by a sternly-uttered reprimand, and afterwards he did but indulge in a growl of dissent from all Mr. Beattie's observations. He would not allow his brother to dig the soils for inspection, but snatched the spade from his hand, talking all the time. When Anthony once attempted to answer a question, he sharply interrupted him. 'Will ye whisht, now, while I try to make the gintlemin sinsible?' This surly fellow had a child in every respect the opposite to himself in manner and disposition. All over the farm we were followed by little Mary, his oldest daughter, a laughing, bare-footed romp of fourteen, with long tangled yellow hair, and the largest of blue eyes. First upon meeting us she laid down two milk cans in the middle of a field, and stood gazing. Suddenly she disappeared, like Ariel, returning in a moment with eight collicens and gossoons, all younger than herself, and attended by a large dog. Children and dog gathered about us in silent curiosity as the soil was turned up and examined, and they accompanied us, despite all threats and remonstrances, over every part of the farm until we had completed the inspection. Mary led the whole tribe of them from field to field, clambering over the stone fences with the utmost ease, but taking care to keep her troop of ragged chernbs at a safe distance from her father's strange visitors. All these children were certainly healthy and happy enough. Their fathers and mothers indeed looked all the sadder for the contrast. It is like living in a past age to stand for a

few minutes in one of these poor men's cottages. There is but one high-roofed, windowless room within; and at first it is difficult to discern surrounding objects in the darkness. A bright fire of turf burns at one end, and round it sit the old folks, warming ever and anon their chill, trembling hands. Through the smoke gleams the crockery on the never-absent press of dark wood, next to which stands the humble bed, rudely canopied to keep out the treacherous rain that leaks through the rotten thatch. The daylight from the open door, half intercepted by a group of peeping boys and girls, touches with the effect that Rembrandt loved, a face here and there discovered in the gloom. A young woman, sitting wrapped in a shawl, shows her baby to the strangers with smiling pride; and at this moment a plaintive low calls attention to the presence of a cow and her heifer at the other extremity of the house, or stable, or whatever it may be called. The whole scene brings strangely to mind an old picture seen long years ago of a Jewish stable, in the days of Rome's pre-eminence, of a beautiful face bending over a newly-born infant, and the meek eyes of cattle peering out in the dark background.

After a short pause for lunch, the Commissioners resorting to the mysterious black bag, we proceeded to the holdings of Anthony Bulkin, Thomas Durken, Patrick Judge, John Judge, Pat Durken, and Luke Durken. These were all similar in character. In all there was a little reclaimed land, upon which the tenants had built houses, and raised oats and potatoes of poor quality. The greater portion of the holdings was bog, and I here found again the value of some English-made shooting-boots and gaiters. I had to spend the afternoon in leaping from sod to sod, sometimes slipping in up to the knees amid a chorus of 'God bless ye' from the bogtrotters behind me; sometimes crossing a stream on stepping-stones, or taking a wide black ditch at a standing-jump. Professor Baldwin himself would have marvelled at the agility of Mr. Assistant-Commissioner Houghton, who is accustomed to grouse shooting; but I took the precaution of following Mr. O'Shaughnessy's gigantic form, knowing that where he had stepped I

was safe. In every instance the most searching questions were put by the Assistant Commissioners, and the minutest observations recorded. Mr. Haughton's questions always began with an inquiry as to the size of the enclosure, followed by another as to the extent of it which the tenant had reclaimed. The two Assistant Commissioners follow entirely different systems in estimating the value of the holdings; yet, as indicating how fairly and accurately their calculations are made, I may say that, upon the last estate they valued, it was found, upon comparing the two estimates, they were within a few shillings of the same amount. Mr. Mc'Carthy, for his part, exhibits the keenest anxiety to deal out impartial justice in the hearing of the cases, and the consequence must eventually be that this Sub-Commission will achieve real success, and prove the best that could have been sent here. Already two landlords, after obtaining a decision in one case each upon their holdings, have settled with the remaining tenants upon the same lines; a course which might advantageously be followed in other directions where satisfaction is felt.

The great want of these Sub-Commissions, however, is still, as I have before pointed out, a staff of official valuers, appointed under Section 34 of the Land Act. The following suggestion, which I have made to certain gentlemen in authority, has been very favourably received, and may possibly be adopted by the Commissioners.<sup>1</sup> At present three-fourths of the time of the Assistant Commissioners is occupied in clambering over mud fences and wading through dismal bogs. If, before they reach a Court town, they had sent official valuers over the estate, they might select, say three holdings, and go over them without naming them beforehand, as a check upon the valuers, who would then, not knowing which farms might be selected, be very careful in valuing every one of them. If this suggestion be not adopted, there is only one other plan, which, as detailed in a former letter, might

<sup>1</sup> The suggestion was adopted by the Commissioners in the case of appeals; but for reasons which will hereafter appear, it cannot yet be applied to cases coming before the Sub-Commissions.

be useful in getting over the difficulty—that is the appointment of a sufficient number of County Court Judges to be temporarily Assistant Commissioners, associating with each of them, on equal terms, two skilled agricultural authorities. Unless something of the sort is done, the Courts will certainly be by Christmas time at a dead lock. This very Sub-Commission must leave behind it a number of cases undecided for want of time.<sup>1</sup>

<sup>1</sup> The rents in these cases of Mr. Thompson were largely reduced.

## CHAPTER XIX.

*MR. EVELYN ANGLEYS TENANTS.*

SLIGO, Saturday, November 26.

THE affairs of this country may be properly considered as presenting just now a difficult but in no respect insoluble problem to the statecraft of its rulers. To a large majority of Englishmen the idea of open declared opposition to the law of the land is novel and perplexing—almost incomprehensible. The British burgess or farmer is satisfied in the main with the code, written and customary, which regulates his business, and he is, it would appear, sometimes inclined to think that the state of things prevailing here calls for the most stringent measure known to civil government—namely, Martial Law. As a matter of fact, many persons of authority on this side of the Channel are also at this very moment contemplating the possibility of a resort to that odious necessity; and there is no doubt that some more effectual system of repression than the honourable confinement of two or three hundred Land Leaguers in Kilmainham is being matured by the Government. Since I stated the other day, as the result of careful and extensive inquiries, that not more than one-tenth of the autumn rents outside Ulster had been paid, the situation has changed distinctly for the worse. Injuries to property and to cattle, attacks upon the person, even murders, have increased in frequency and atrocity, and but a very trifling amount of rent has come in. A few days ago I was told by the agent to a number of great landlords that up to the previous afternoon he had not got in a shilling in respect of any one of the properties which he managed. He had, however, received

on that afternoon a little rent from some of the tenants upon a single estate; but, in consequence of the refusal of a permanent reduction, the whole body of the tenants had served him with originating notices, piles of which he showed me. In this case he was agent for trustees, who obviously could not, with safety to themselves, consent to permanent reductions. The general non-payment of rents is now undoubtedly the most serious symptom of the land agitation, and it is clearly the effect of the system of outrage which is terrorising the country. The small amount of rent paid is not surprising if we recollect that in large districts a man who pays his landlord gains practically little more security in his holding than his non-paying neighbour, and that his life is put in hourly and imminent danger. What is wanted, therefore, is some better means of suppressing and preventing outrages. And here it is encouraging to observe that the areas operated upon by the assassins are in reality few and small. Martial law, as proclaimed in 1833 during the anti-tithe agitation, is unnecessary. What is wanted is a short measure enabling the Lord-Lieutenant to send an increased police force to any district to be defined by him, with authority to search for arms, and with instructions to patrol every road and lane all night. The force should consist of picked men of the best character. The utmost forbearance should be rigidly required of them; and the cost of their maintenance should be laid upon landlords and tenants in the district. Compensation to the relatives of a murdered or injured man should also be levied upon the locality, and thus every person in it would have an interest, which at present he has not, in preventing murderous outrages.

The authorities are understood, however, to favour the temporary suspension of the right to trial by jury in certain districts, upon which it may be remarked that, reasonable and appropriate as such a course would appear to be, it would not ensure the attendance of the necessary witnesses. Obnoxious as some of the Irish Judges are to the people, it is out of the question that any of them would convict prisoners upon less evidence than he had been accustomed to require at an



ordinary trial. Of course a Commission of Judges would not have power to inflict capital punishment, even on the clearest evidence, and for that reason, if the plan be adopted, it would be as well to reserve the power of prosecuting before a jury. With this safeguard, and as an additional means of repression, the Commission might possibly be useful as an adjunct to what is after all the real remedy—an increase in the police force.

On the occasion of the opening of the Commission a sentence of the President was interpreted to mean that the reduced scale of payment to be fixed by the Assistant Commissioners would apply to the half-year current when the Act was passed on August 22 last. For example, if a Sub-Commission gave a decision on October 20, 1882, reducing Patrick O'Donnell's rent from 10*l.* to 8*l.* a year, only 4*l.* and not 5*l.* would have been due to the landlord on September 29, 1881. There has unquestionably been a great deal too much speechifying during the short history of the Commission; but Mr. Justice O'Hagan could hardly be supposed by any lawyer to have intended to lay down this doctrine. The words of the 2nd clause of Section 8 expressly provided that the reduced rent should not commence even to accrue from day to day until after the decision of the Court. The misapprehension has been rectified; but there is still a mysterious section of the Act to be considered. Section 60 provides that an order of the Court, made upon an application recorded on the first occasion of the Court's sitting, shall be equivalent to an order pronounced at the date of the passing of the Act—that is August 22, 1881. Nearly thirty thousand applications were so recorded, and each of the applicants believes that at least the half-year's rent accruing due from September 29 or November 1—the first rent days happening after the passing of the Act—will be reduced by the decision. In the case put, Patrick would expect to pay only 4*l.*, or perhaps less, on March 25, 1882, and until he knows the amount, he is unwilling to part with his money. Of course the old rent could still be enforced at law; but this widespread expectation is likely to interfere very seriously with the payments of

rents in the spring. I never meet an intelligent Irishman on either side who does not regard the want of some provision dealing with arrears as a hopeless defect in the Act. The small landlords are now taking out writs largely for arrears; and it is worthy of remark that the great landlords are beginning generally to follow the example set by their needy brethren. Still another hindrance to the payment of rent is occasionally noticeable in the attitude adopted by some landlords towards their tenants. A haughty and defiant demeanour in the Rent-Office is sometimes sufficient to turn the scale at the present juncture. I think I can give an instance of this.

The late Lord Palmerston owned an extensive estate at Cliffoney, on the north-western coast of the county Sligo. In 1865 it passed to his widow, and upon her death to her son, Mr. Cowper-Temple, now Lord Mount-Temple. A few years since Mr. Cowper-Temple gave it to the present owner, his relative, the Hon. Evelyn Ashley, M.P. The estate, which amounts to over twelve thousand acres, begins at the village of Grange, and extends along the sea-coast for some ten miles to Bunduff, on the borders of Leitrim. There are, I believe, about 680 tenants upon it. The rental is 3,000*l.*, and the valuation about 3,700*l.* During Lord Palmerston's lifetime the landlord and tenant agreed very well together; 20,000*l.* was laid out upon a small harbour at Mullaghmore Point; relief works were undertaken in the famine years; the rent was never raised, and the adoption of improvement schemes was rewarded. If the tenants had one complaint against their landlord, it was that he did not respect their notion of part-ownership in the soil. All round his new harbour and elsewhere he set back the tenants to lauds further from the sea, leaving them, however, an ancient way to shore, for the seaweed which some of them sold as 'kelp' for the extraction of iodine, others used as manure, and some wretches were even forced to eat. Mr. and Mrs. Cowper-Temple, as might have been expected, were indulgent and generous towards their tenants, and their names are honoured there to this day. Mr. Ashley has also in many respects shown him-

self considerate towards the numerous families who were transferred to him with their holdings. He has not evicted the tenants; he has given them time, and last year excused half-a-year's rent. But in other respects his conduct has hardly been conciliatory. He refused to concede what his tenantry regard as their immemorial rights; he maintains officials who are justly obnoxious to them; and he has refused this year to allow any abatement of the rents. When the agent the other evening attended at Mullaghnore to receive the rents, which are paid yearly, the tenants, by their spokesman, required the grant of the following conditions:—Firstly, an abatement of one-third; secondly, the transference of a certain head gamekeeper to some other sphere of usefulness; and thirdly, according to one account, the release of the suspects. Looking at Mr. Ashley's position in the Ministry, it is clear that if this demand were seriously made, the tenants, who are to a man Land Leaguers, have been receiving bad advice. It is probable, however, that the concession of the first and second demands would have satisfied them, and it is by no means certain that this concession ought not to have been made.

I left Sligo this morning in a violent storm of wind and rain, behind a horse of excellent speed and temper, but piloted by a morose, cross-grained driver, the very opposite of honest old Michael of Ballina. Before we had passed through the town, he had engaged in a recriminatory dialogue with a market woman, 'off her side,' which, for range and pungency of epithet, recalled the famous encounter between Mephistopheles and Bellona, in Dr. Keene's poem; and with us signal a victory for the lady. We pursued the Ballyshannon road as far as the old church of Drumcliff, once the seat of a bishopric, and where yet stand two exquisitely carved Irish crosses, and the remains of one of the ancient round towers, into which the owner must have entered by escalade. Here we made all fast, as we had presently to turn the corner of the King's Mount. King's Mount and Benbulbin were dimly seen like a faded picture through the mist; and a succession of furious blasts, accompanied by hail and rain, bore along each chain full upon us.

At the village of Grange we came upon Mr. Ashley's estate, and the road began to look rather English. Lord Palmerston planted ornamental trees on both sides of it, and placed here and there a slated cottage all neatly whitewashed. I drove straight to the residence of the venerable and dignified parish priest, the Very Rev. Canon Malachi Brennan. His curate, the Rev. Mr. Cummins, was also present, and both gentlemen greeted me cordially. Having explained the object of my visit, Father Brennan, or, as he is commonly called, Father Malachi, related to me the grievances of the tenantry. The first cause of estrangement was the refusal to allow the tenants the use of the old road to get their seaweed. They were directed to use a new road which took them so long to traverse, and was in other respects so inconvenient, that one-half only of the seaweed brought in could be secured. One of them was prosecuted for using the old road, fined some small amount, and in default of payment committed to prison. By advice, however, the question was taken before a higher tribunal, and ultimately the use of the old road was restored to the tenants. The second head of complaint referred to the conduct of a gamekeeper, an Englishman, imported by Mr. Ashley to guard his preserves. This man is stated to have shot one person by the reckless use of firearms, to have fired at or over another, and generally to have conducted himself in an overbearing, offensive manner towards the tenants. Father Cummins told me that he one day, hearing a shot fired, went into the road, and found a number of persons expostulating with the gamekeeper. It appeared from the discussion that the man had met a boy carrying a gun in the road without a licence, and that the boy, fearing him, dropped the gun and fled. The gamekeeper immediately fired after him as he ran, fortunately without effect. Father Cummins heard him admit the fact, and state that 'he only wanted to frighten him.' This man is rigidly Boycotted, and has a policeman with him wherever he goes; and it is probable that if anyone fired at him with the excuse that 'he only wanted to frighten him,' the matter would be treated very differently by the landlord. The charges against the gamekeeper had been drawn up by

Father Malachi and his two curates, at the request of the tenants, and sent in to Mr. Ashley, without effect. On the contrary, he wrote in a cold tone of rebuke to the aged parish priest, suggesting that the Father had been persuaded to sign a memorial, and that it was the work of some new-comer. Father Malachi, who has a real regard for Mr. Ashley, was deeply moved while he was relating all this, and said that he had immediately applied to the landlord, urging at length the views of the tenantry, and assuring him that he had never put his hand to anything which he did not approve of and understand. Mr. Ashley returned a petulant and haughty reply, putting an end to the correspondence. The letters were shown to me, but as they contain evidence of a hasty and unreasoning temper, I have done no more, in accordance with Father Malachi's wishes, than indicate the general character of them. Father Cummins was kind enough to drive with me to some of the tenants' houses. Not far from Father Malachi's we met a young man, who had actually been struck with shot fired by the gamekeeper referred to, fortunately without injury. He told me the whole story; from which it appeared that the man had fired at a dog belonging to my informant with such recklessness as to send a shot into the latter's face.

As we drove along, after hearing this, I noticed that the holdings were of a wretchedly poor description, mostly boggy, and the houses surrounded with mud and filth. One proof of the poverty of the people is that during the entire day I did not see a single pig. If a tenant has ten or twelve shillings to spare when the early potatoes come in, he always buys a pig to fatten on the diseased tubers; and here they could not afford to do that. I walked on to Terence M'Gargle's farm, which consists of about seven Irish acres, mostly pasture of a rough description. His rent is 3*l.* 9*s.* He grows enough potatoes for the winter, a scanty crop of oats, for which the land is altogether unfitted, and he keeps two cows. He and his only child, a son, with a little assistance from his wife, work the farm. The soil of the potato field was fairly good. 'But come farther, sir,' said he; 'the soil is but two inches deep on the

rest.' And when we tried the ground nearer to the sea, we did indeed find but the scantiest turf thinly covering hard rock. Looking into the house I could see no bacon hanging from the rafters, only a great heap of potatoes in one corner, beside which stood a cow and her heifer, while a few hens flattered about the room at their pleasure. The tenant's wife and son were sitting before a fire of turf, and they rose to greet us. 'Well, Terence,' I said, after other particulars had been discussed, 'and how do you live?' 'Indeed, sir, but very poorly.' 'You get a little meat now and then, I suppose?' 'Is it meat, sir? Sure it's not more than once a year, at Christmas, we can taste it.' 'You get some American bacon then?' 'No, sir, the bacon's not for poor folks like us; but we have the praties, thank God, and the sup of milk.' 'Do you over eat one of these hens, Terence,' inquired Father Cummins. The whole family laughed together. 'No, indeed, your Riverence; but we sell the eggs, and it helps to pay the rent.' 'Have you any sons in America?' I inquired. 'I have none but this boy, sir.' 'Now, what do you think would be a fair rent for the farm, Terence?' He thought for a time. 'I think I could pay the two pounds nine, sir.' On a farm occupied by another tenant we found a large field in a state of swamp, and I inquired of the tenant why it was in such a condition. 'Sure, sir,' he said, 'I drained it with six drains, into the pipe in the road forminst you; but the pipe burst, and they made a new one higher up the road; and the farrum is too low to run water out into it.' John Farrell had two acres, on part of which he grew potatoes. He was a thin, haggard, anxious-looking man, and his house, or hut, was repulsive to enter or to walk about. He told the same story as the rest, of poverty and bad soil, and struggling to pay the rent. 'How many children have you, John?' 'Three at home, sir, and a boy and a girl in Ameriky.' 'And do they send you something for the rent?' 'Sure they did, sir, but sorra a penny have they sent this year.' I inquired what animal occupied a low shed built under the lee of his cabin. 'Sure it's me sisther, sir,' said he apologetically; 'it's the best I could make for her.' In this hut, more like a wheelbarrow

shod than anything else, the old man's maiden sister had been housed for years.

After seeing quite enough of these hovels we drove to the harbour at Murraghmore, where the houses are more pretentious. It is certainly well situated for fishing, and the mountains towering out on both sides of the bay into the Atlantic, with lines of breakers dashing endlessly at their feet into clouds of spray, are as grand as any in the kingdom. But the enterprise has failed. The fishermen have bad seasons; the streets marked out for villas are yet unbuilt, and the castle that crowns the hill, and was to be the highest pinnacle of a stately town, still looks down on a waste where stand a few melancholy-looking lodging-houses. All the tenants on this estate have refused to pay their rents without a reduction of 6s. 8d. in the pound. It is rumoured that Mr. Ashley is about to exercise 'firmness'—in other words, to enforce the law. But he is practically helpless. He cannot evict seven hundred men with their families in the midst of winter, and nothing less would be of any avail. *Quidquid multis peccatur inultum est.* A poor-law collector in the neighbourhood declares that the tenants are 'more fit to go into the poor-house than to pay rent.' There is perhaps a little moral for other landlords in all this. I have not the slightest doubt that Mr. Mc'Carthy's Commission will lower the rents upon this estate from 20 to 30 per cent. If a member of the Ministry so well informed as Mr. Ashley refuses any permanent abatement to his tenants, is it not probable that he is aware of some scheme of compensation for diminutions of rent which are effected by the Commission, to which compensation a landlord making voluntary permanent reductions would have no claim?

## CHAPTER XX.

*THE CASTLETOWN EVICTIONS.*

CASTLETOWN BEREHAVEN, CO. CORK  
Saturday Evening, December 3.

THE accounts which reach one of the varying influx of 'originating notices' from different counties suggest a feature of the present situation which is of somewhat evil omen for the future. Wherever the League has waxed popular, a doubly discomfoting result can now be traced. Not only do the farmers in a county under the dominance of the League refuse in a body to pay rent, but, except in the poorest tracts of the West, they hang back from the Courts of the Land Commission. A man might as well hope for rent from a submerged island as from an estate in County Cork, and no one in his senses would buy an acre of land, unless as a family burying ground, in County Limerick. The owners of the soil fare miserably in Counties Clare, Cavan, King's, Louth, Wicklow, Tipperary, and Kerry. In most of those counties the proportion of cases entered for trial by the Commission is lamentably small, and shows no sign of increase, although it may be remarked that none of them is so backward as Dublin County. On the other hand, Tipperary, with about a thousand, and Limerick, with eight hundred and fifty cases, evince some glimmering reappearance of that quick sense of self-interest in this matter which was thought to have finally vanished from the minds of the Irish farmers. The tenants in Kerry are also flocking to the Registry, while the applications from Mayo and from Galway are coming in three times as fast as those from Ulster, which has nearly exhausted the list of possible litigants. The general rate at which



'originating notices' are received is about five hundred a day, but of course there is considerable fluctuation. It is surprising that there are only seven or eight hundred applications to break leases, but this may be due to the prevailing impression, that the Commission will only exercise their jurisdiction on this head in extreme and flagrant cases of tyranny or deception. It is probable that a certain number of the poorer Western cultivators, encouraged by the reductions recently effected in their midst, will resort to the procedure under the Act, and that the total number of applications recorded may in some three or four months be a hundred thousand. Adding to these the cases of about a hundred thousand tenants claiming to be either actually, or by construction of law, leaseholders, and two hundred and twenty-three thousand known to be fairly rented, or to be held back by Land League influence, the genuine agricultural tenants of Ireland will ultimately be nearly all accounted for. It is customary to argue such questions upon the assumption that the tenants number more than six hundred thousand; but the assumption is based upon an insufficient examination of the facts. It is true that the agricultural holdings of the kingdom amount to six hundred thousand and more. But after deducting from the calculation the large number of cases in which a person occupies two or more holdings, we should perhaps estimate about five hundred and twenty-three thousand as the figure truly representing the number of the cultivators. Of these at least one hundred thousand hold land for pleasure, as town parks, or for the purpose of occupying superfluous time not required for other more remunerative business. We should then have a reduced number of 423,000 tenants, dependent for their subsistence upon the cultivation of land in their occupation, that being the exact number of persons calling themselves tenant-farmers in the Census returns for 1871. From the subsequent yearly returns it is clear that the number of pure tenant-farmers must have been even less at the time when the Census was last taken.

The campaign between the landlords, who are now beginning to demand their arrears, and the League, has opened

in the South by the evictions upon the Castletown estates belonging to the Earl of Bantry, and on those of Mr. Puxley. The result, it will be perceived, is in this case a drawn battle. Some significance was attached to the proceedings by the fact that Mr. Herbert Gladstone accompanied the Sheriff. I believe I am correct in stating that the Chief Secretary, who is perfectly alive to the peculiar hardships of tenant life in the West, desired that young Mr. Gladstone should see for himself what Mr. Forster had painfully realised thirty years before. Mr. Gladstone was particularly enjoined to visit the wretched inhabitants of Dursey Island; but this, as will be hereafter shown, was impossible.

A body of about fifty police, under Sub-Inspector Maxwell, and about a hundred and fifty foot soldiers, were assembled at Castletown on Tuesday last, and supported the work of eviction on that and the three following days. On Tuesday and Wednesday the Under Sheriff, accompanied by the agent, Mr. Payne, and three bailiffs, and surrounded by his armed escort, methodically evicted tenant after tenant of the thirty-nine selected for the operation, as regularly seeing them restored by Mr. Payne as caretakers, or occupiers at will, upon a promise to pay the arrears. Mr. Payne, however strange it may sound, is not a man of ungentle disposition, and his object in the whole affair was merely to give a lesson to the numerous tenantry of Lord Bantry and Mr. Puxley upon these mountain-sides, most of whom owed two or three years' rent—in other words, it was his desire to get in a little money. On Thursday this prospect was somewhat marred by the advent of a fair Land Leagueess, distinguished by spectacles, and a fluency of speech more than feminine. The lady followed the march of the column, and, stealing into a house about to be invaded, persuaded the occupiers to submit to actual eviction, upon her promise that a house should be built for them on a neighbour's farm, and that they should be supported from the funds of the Ladies' Land League. Yesterday, upon starting for the evictions, another Sister of this somewhat obtrusive Charity appeared. The car of the two ladies followed immediately after one upon which I happened

to be. The troops and police had already marched to the scene of action, but we overtook them at a few miles' distance from Castletown. The advance of the ladies was looked for, and the gallant major in command had made ample preparations for repelling it. It was raining smartly, and the bogs on either side of the road were so soaked with water, that nothing heavier than a fairy could have tripped across them safely, to say nothing of the frequent and slippery mud fences that had to be scaled. The wily Commandant had therefore halted his force at a particularly sloppy spot, where the road branches in two directions. He had extended the police two deep across the road, while the soldiers, grasping their rifles, stood further back as a reserve. Our way was allowed to pass. Then came sharp words of command, 'Left turn,' 'Quick march,' 'Halt, front,' and a section promptly filled the gap. A select body of constables was following the Sheriff over the hills towards the threatened holdings upon Mr. Puxley's estate, and I trudged after them, leaving the two ladies face to face with a hopeless superiority of force. For an hour it seems they sat expostulating with the Constabulary upon the unpatriotic character of their service, and finally returned at full trot to their hotel—I sincerely trust without catching cold.<sup>1</sup>

The Constabulary climbed the hill in skirmishing order. The first house the Sheriff reached was that of Margaret Walsh,

<sup>1</sup> Mr. Forster has been severely blamed for the prosecution of the spectacled patriots, who was held to bail, but preferred to go to prison. The lady, however, appears to have exceeded the licence tacitly allowed to the Ladies' Land League. The state of things in many parts of Ireland is analogous to a condition of war, in which neutrals are allowed to succour and relieve the non-combatant element of the population. So the Ladies' Land League have been permitted to look after the families of suspects, and of evicted tenants; and even to administer to the wants of the imprisoned Leaguers. For the lady in question, by inciting the tenant to endure eviction, threw off her neutral character, and became, so to speak, a combatant. In the most dangerous times of the French Revolution, such sensible, placid *Tricoteuses* as restricted their Republican zeal to the production, maintenance, and comforting of patriots were never interfered with.

of Cramlong, high up on the mountain. The widow received us weeping. Four frightened young children stood by the hearth, pale as the ashes upon it, and a grown-up son lay dying of consumption in the after-room. A few words were sufficient. The agent's nephew and the Sheriff conferred apart with the poor woman, who made a promise to pay something soon, and then she was directed to go outside with the children for a moment. It was but a moment, while the Sheriff, fulfilling the accustomed ceremony, extinguished the fire on the hearth; yet the little group stands before me as I write more vividly than any that was ever arranged upon canvas. The children, with their bare legs half buried in the filth of the dunghheap, held their peace; but their eyes were brimming with sympathy for their mother, as with her face working strangely before the circle of armed men, she clasped her youngest child more closely in her scanty shawl, to protect it from the driving rain. Four other tenants, owing, like Widow Walsh, about two and a half years' rent, were similarly evicted, and then re-admitted as caretakers; and in each case there was something indescribably mournful in the spectacle of the utter and hopeless poverty of those mountaineers. A thousand feet above the ocean that laved the shores of the bay below them, they had driven their hardy cattle out daily to eat the sweet grasses from the crevices in the rocks; and had laboriously dug and planted their tiny plots with potatoes, with but one result—a bare yield of food, hardly enough to keep life in their lean bodies; unless, indeed, as another result I may be allowed to reckon the growth of that despondency, due to the struggle with an unkindly soil, which is here grimly described as ‘The breaking heart.’ Their families were very large; in some cases the husbands were in America, sending home what they could spare from their earnings.

After completing the evictions on Mr. Puxloy's holdings—obtaining, however, nothing in the shape of hard cash—the Sheriff made his way back down the road, towards the houses of some tenants of Lord Bantry. The bugler occasionally played a lively march, which swelled and eddied away in echoes from the mountain ranges all about us, and the troops,

marching at ease, cheered their solitary musician. Scarcely a human being could be seen in this dreary wilderness. The Sheriff again left the road with some police, and stopped at the house of one Widow M'Carthy. It was empty; the furniture had been carried out, and the door borne away. The party next reached the house of John Cronin, a returned emigrant; who had spent all the money he had brought back with him in building a very good house, and some outhouses. He is a passionate man, and on seeing the police, seized a hammer and furiously smashed his furniture into pieces. He then tore the door from its hinges. At this moment Mr. Payne, senior, who had joined the Sheriff, accosted him. 'What are you doing that for, Cronin?'—'To get in and out when I wish,' he replied sternly. 'Now, do be reasonable, and go in again as caretaker like the others.'—'I will not. I must leave the farm, for I can't get a living on it.' 'Take the penny now, and shelter your child.'—'I will not.' The penny was put into another man's hand to give him, but he still obstinately refused to touch it, and so did his wife; and the family were accordingly left in the yard outside the house. The same course was pursued with the Widow Conroy, who likewise declined to be put in as caretaker, or to promise to pay the rent.

This morning I called early at Mrs. Conroy's house, and her story in full is as follows:—'I am the widow of Jerry Conroy, who was killed at Mr. Puxley's Castle when at work, and Mr. Puxley gave me ten shillings. I am forty-six years of age, and shall have been widowed fourteen years next May. The old rent was 5*l.* 18*s.*, and I had four milch cows. Then the land was stripped, six years ago last September; and the rent raised all round. Some of my land was taken away, and eight and a half acres left. I pay 8*l.* 10*s.* rent. I have three-quarters of an acre in potatoes, no oats, and two cows; but one belongs to my mother-in-law. I had one firkin of butter this year, but none last year, when we all had to take the relief. I have one daughter, nineteen years old, in America, in service. She has had the fever, and can send nothing. I have three at home; two children and one boy grown up; he

works at the farm. I had a little pig this year, but I had to sell it, and I owe a great deal of money in Castletown. My mother lives with me, and my mother-in-law next door. The land is poor and wet. I think I could pay three pounds. I owe three years' arrears.'

John Cronin is a powerfully built man of 40 with a hard, set face. I noticed that his hat was worked round with the word 'Leaguc.' He had eight and three-quarters acres, and the rent was five guineas. With two cows he made but one firkin of butter this year, and his potato crop was a poor one. He had four boys, three of them being still young children. His house is the best in the district for miles round, being substantially built of stone, slated, whitewashed, and fitted with good windows and doors. He had spent sixty pounds upon it, and had drained his land with unceasing industry. He thought he could pay two pounds rent, but he could not, or would not, pay the arrears. The man was walking moodily up and down before his house to-day, his wife watching him anxiously. The broken bed and other furniture were lying in a confused heap, the young children playing about them, and the sun shone brightly down upon all.

Catherine McCarthy, aged 24, was a comely widow, with one child, six months old. Her husband had suffered from erysipelas, and had died but three weeks before. Her rent was 10*l.* 5*s.*, and the valuation 8*l.* 15*s.*, her farm being of ten or twelve acres in extent. Three years' rent was owing. She thought that 6*l.* would be a fair rent. The agent had already put in a neighbour as caretaker, and the new comer had already his cows on the farm. These three evicted tenants had all seen the Land League ladies on the evening of Friday to report their conduct, but stated that they did not yet know what would be done for them. They had respectively lodged with their families at the neighbours' houses. I was struck with the fact that each of the three complained with bitterness that the agent had refused to allow an abatement or 'settlement.' This is, however, denied by Mr. Payne.

## CHAPTER XXI.

*DURSEY ISLAND.*

CASTLETOWN BEREHAVEN: Monday, December 5.

YESTERDAY, not without much difficulty, I effected a landing on the jealously-guarded Dursey Island, and thoroughly explored it. This tiny part of Her Majesty's dominions, which lies off the western coast of County Cork, has but rarely been trodden by a stranger's foot, and, owing to the unfortunate relations subsisting of late between the islanders and their landlord, Lord Bantry, it has for some time back been maintained in a state of siege. It is impossible even in this town, the nearest to Dursey, to obtain any exact information concerning it; and I have only discovered one townsman who ever visited it. Lord Bantry has never been over it, and it is twelve years since his agent was there. That is, perhaps, due to the fact that after taking a short walk on a sheltered plateau in the island, he went home and promptly raised the rents of the inhabitants very considerably all round. For some two years, however, I believe, the Dursey people have paid neither rent nor taxes, and without a naval expedition it is difficult to see how any legal obligation can be enforced against them. The process of the law cannot be personally served there, for the simple reason that there are no boats to be had, except those of the island fishermen, who decline to lend them for any such purpose. There are, moreover, only two landing-places on the coast of Dursey, both so dangerous that any boat steered by an inexperienced and unskilled hand would inevitably be dashed to pieces against the sharp edges of the slate cliffs, and all the writs and notices whirled away upon the angry waves of the Atlantic. It was in the early

morning when I started for Dursey, with two gentlemen who wished to accompany me. The weather had been frosty during the earlier part of the night, but now the wind was rising from the south-west; the rain poured heavily down, and we reached Garinish only to find a gale blowing, and the waves rearing furiously. Of course all hope of rescuing the lighthouse men that day had been given up; but I found the daring boatman Shea confident that he could still carry me across the Sound to Dursey. It was about half-past six o'clock in the morning, and as dark as midnight. My two friends absolutely refused to make any attempt to cross. They accordingly drove back again to Castletown.

The descent to the water was by winding steps cut in the cliff, ending in a small cove, into which successive billows rolled with a terrible noise, tossing the great boat, 25 feet in length, high up in the air, as if they would fling her against the rocks. It was very difficult to hear the directions shouted to me. The four oarsmen, however, pulling hard, kept the boat near the steps, and seizing the moment when she rose nearest I sprang safely in, with no more mishap than a roll over. Pulling well together, the men brought me over the Sound, the bow of the boat sometimes rising high in the air, and then settling down with horrid persistency into the yawning jaws of a huge wave. The landing place on Dursey Island was even more dangerous than the starting place on the mainland, being merely a shelving cliff. There, however, a number of men caught a rope and dragged the boat up, so that we could safely disembark. The rock was so slippery that I should probably have shot back into the boiling torrent raging round us if I had not been assisted up by two men.

At those fearful places the people of Dursey have to cross and recross if they would visit the mainland. When they have a cow to sell they fasten a rope to its horns, force it down a shelving rock into deep water, and then drag it after the boat to the other side, where the exhausted beast has to clamber up another steep ascent. Pigs can only be carried across when young. A porker is carried in a man's arms down to the boat, flung in, and tossed out again on landing. Sometimes a cow



is lost in making the passage, and I saw a horse with its off hind-log so seriously injured by this dangerous system of ferrying as to be useless. Sometimes a band of Dursey folk returning from Castletown find a gale blowing, and have to wait for a week before they can cross. In the meanwhile they of course subsist on charity. Again, a man having a pig or cow to sell may be delayed in the island until the fair day is past, and in that case his chance of selling it is gone. The last person to visit Dursey, save myself, was a Mr. Joynt, who came with a supply of food for the starving inhabitants; and he was so impressed, I am told, with the danger incurred in crossing, even in fine weather, that he generously promised a hundred pounds towards building a kind of quay, but nothing in that direction has yet been done. The weather is here as a rule tempestuous throughout the greater part of the year. Last week, however, the most terrible storm known for thirty years occurred. The Calf Rock Lighthouse, built on an islet at the south-western angle of Dursey, was destroyed, and several of the fishermen's boats were crushed.

A number of the poor people, attracted by the sight of a stranger, followed me and my conductors up a road, hewn and blasted out of the rock, to one of the three villages, known as Ballynacallagh. The island runs from the north-east to the south-west, and is about four miles in length, being in the middle nearly a mile across. It is simply a long mountain range, the rock being slate, with veins of quartz. This, I believe, is the formation on the opposite coast, at the copper mines of Allihies, and it is therefore possible that copper might be also found in Dursey Island, and some remunerative work provided for the people. I could not, however, find that any experiment had ever been made with the 'corrie,' as they called the quartz. The population once amounted to three hundred, but at least one-third went to America in the year of the great famine, and from these emigrants I find the Dursey people derive their chief means of support.

At Ballynacallagh I called on Jerry Harrington, one of the three richest men in the island. He came out clad in a tattered flannel shirt, an old broken hat, frieze trousers,

and a pair of boots which an English beggar would not pick up, half of his right foot and half the toes being exposed as he walked on in the heavy rain. There are eight or ten houses, of the poorest Irish type, in the village; and the ruins of a little church, believed to have been built by the Spaniards centuries ago, but containing no inscriptions. The number of souls on the island is now two hundred and nine, and they have neither priest, doctor, nor schoolmaster among them. There is no magistrate, bailiff, or official of any kind. The little community governs itself, and strives, with poor success, to feed itself. No shop is kept, and a wheeled vehicle is unknown. About twice a year the islanders usually contrive to go over the stormy Sound to hear mass; and mothers carry across their infants for Baptism when they are a month old. If a man is too sick to bear transportation he dies, and is laid to rest in a little graveyard looking far out on the expanse of ocean, whose sad ceaseless rhythm is his requiem.

There are twenty-three farms on the island, the cultivators eking out their produce by fishing; and there are twelve households solely dependent on the ocean stores, the number of boats being five. This has been a bad season, and all the boats except one were knocked to pieces by the recent storm. The farms are almost entirely devoted to grazing, a little space in each being reserved for potatoes, or sometimes oats. The potato crop this year is a total failure. The fields are the steep sides of the mountain, and run down to the cliffs at a dangerous gradient. A cow grazing at a distance from the sea is apt to slip, roll over and over, and fall at last several hundred feet into the gulf; and so frequent is the loss from this cause—eight or nine this year—that the children of the farmers find their chief employment in watching the cattle, and driving them away from the steepest places. I descended the sloping pasture until my friends warned me that it was dangerous, in such a gale, to approach any nearer to the cliffs. Below me, at a distance of five or six hundred feet, the waves were rushing upon the reefs that stand up all round the island. I could distinctly make out the carcass of a bullock in the surf, appearing about the size of a small cork.

Michael Shea has a large farm, with grass sufficient to support four cows. His old rent was fifteen guineas, but it was raised to seventeen pounds odd after the memorable visit of Mr. Payne, the agent, twelve years ago, on the valuation of a person employed for the purpose of readjusting Lord Bantry's rental. Michael was all the more annoyed at this, because he had built and slated a good house, and drained and reclaimed his holding—one of the few marshy localities. He is also the owner of a fishing boat, and was for many years a 'tender man' at the Lighthouse which has just been destroyed. He has ten children, and he feeds them on Indian meal and fish, a most unsavoury but not absolutely non-nutritious diet, occasionally supplemented with a little buttermilk. The fish found are mackerel, ling, and scad. Michael Shea had caught next to nothing this year. He has sent two firkins of butter to the tradesman who sells him Indian meal, salt, and other necessaries, but he is still forty pounds in his debt. [I heard a great deal from the people of this tradesman in Castletown, and I paid him a visit to-day. He confirmed all they had said, and showed me his ledger, from which it was clear, as he stated, that if he pressed his claims not a beast would remain in Dursey for any other creditor. I noticed two things in examining his books. First, that he had allowed over £1. a firkin, which is a fair price; secondly, that there were apparently no payments in cash.] Michael Shea, of Dursey, is, like very many of the farmers in the West, a timid reserved man.<sup>1</sup> But he waxed warm over the story of the wholesale

<sup>1</sup> From a high point of the island I was able to look down upon the ruined lighthouse, in which the keepers were still imprisoned, with the sea washing right over it. Captain Boxer had promised that I should accompany the expedition, intended to bring off the men, on that wild Sunday morning; but the weather, as I have said, was such that no boat could approach the rock. A few days afterwards, while the sea was still very dangerous, it seems that Michael Shea, stripping naked, went out in his boat with Timothy Dudley, Daniel Healy, Bath Lynch, Jeremiah Brohel, and Jeremiah Lowmy as oarsmen, and, at the imminent risk of his life, rescued the six starving wretches from the Calf Rock. If these brave men, as I fear, have small chance of any other reward, they will have the lifelong gratitude of the lighthouseman's wife, whom I saw on shore at the station.

raising of the rent, and declared, 'Sir, I stood out for four years against it. I would be a dead man to-day if I depended on the farm. I have made a living out of my four bones.' The people have to fetch everything they want from Castle-town, fifteen miles from the Sound, and one of their bitterest complaints is that they have to pay poor rates, although the Dursey folks pride themselves on never allowing one of the islanders to go into the poor-house. They have to pay county cess, for the making of county roads, while half their island is impassable for the want of one.

On reaching Jerry Harrington's farm, I found that he had a little land, from which he had taken a crop of oats, but the greater portion was pasture of a poor quality, the turf being about two inches deep over the hard rock. The soil of the tillage varied from three to six inches on rock; and I may say at once, that after at least twenty times digging out the soil in various parts of the island, these measurements of two inches for pasture and three to six for tillage represented the average depth of the surface. Jerry and his brother Tim held a farm in common. They paid together 44*l.* 10*s.*, the old rent having been 35*l.* The valuation is 31*l.* All through the island the rent is considerably above the Poor-law valuation. The grass was poor, thin, and choked in many places with heath and furze. It is, however, impossible to judge of the value of such land in the winter, and the profits, if any, realised by the tenants are, perhaps, the safest guide at that season. Now, I can testify from actual observation that the people are living as poorly as is consistent with keeping life in their meagre bodies; and, from the inspection of the meal-seller's books, that they have paid no money, and are heavily in debt for food. The cattle are small Kerrys, thin and wiry; the few pigs, however, fed on household refuse, looked plump enough. Jerry Harrington, the 'richest' man in the place, whose 'farm'

Her face was swollen with six days' and nights' weeping. Every night the poor woman kept candles burning at her bedroom window, in the hope that her husband might catch their distant gleam, and know that he was not forgotten by one. I saw the light as I was being rowed over to Dursey in the darkness.

is four hundred feet above the sea, thought he could pay 10*l.* for his half of the holding, notwithstanding his burden of nine young children.

Patrick Sullivan's farm had grass for three cows; the valuation was 5*l.* 15*s.*; the old rent 7*l.* 17*s.* 6*d.*, and the present rent 9*l.* 5*s.* He had six young children, and said he thought he might manage to pay 4*l.* Humphroy Sullivan's holding was of the same extent, and held at the same rent as Patrick's, his nephew. The old man had a son and four young grandchildren living with him. Florence Leary had grass for one cow; his valuation was 4*l.*; his rent 8*l.*, and he stated that he could not pay more than 3*l.* He, however, does some fishing. Peter Leary has nine children; he has the grass of four cows, his valuation is 9*l.* 15*s.*, and his rent 17*l.* 5*s.* James Leary maintains a wife, two children, father, mother, and four young brothers and sisters; he has grass for two cows, his valuation is fixed at 7*l.*, and his rent at 12*l.* Tim Harrington has the best house in the island, built by himself; and for which, except the slates, which Mr. Payne gave him, he provided all the materials. I went into his kitchen to-day and rested myself, wearied as I was by scrambling and falling along the steep and dangerous path leading from the middle village, Kilmichael, to the western one, Kilcharinna, and by climbing the frequent fences. Tim has an intelligent, active old wife, two girls in service in America, and six children at home, two of whom are grown up. His eldest son, John, is a helper in the Lighthouse, and is now imprisoned there, and to his earnings the comfortable appearance of the household may be attributed. For poor Tim is also hopelessly in debt both to landlord and shopkeeper. His rent and valuation are of about the same amount as his brother Jerry's, already mentioned. The only food hanging up in Tim's place was dried conger, but he had a small stock of potatoes, the largest measuring two and a half by three and a half inches. At my request his wife made some Indian meal into a cake of bread, such as they commonly eat. She took three or four handfuls of the meal and poured boiling water upon it, and then kneaded it with her hands, using all her strength, for about five

minutes. She shaped it into a flat circular plate of about an inch thick. It was then baked on a round iron plate such as the Scottish people call a 'girdle,' which was laid on the fire of heath-root turf, used here for want of bog turf. In a quarter of an hour I was offered a piece of this cake, smeared with sour butter; an egg, and a cup of hot tea. I ate the piece of corn cake, and I brought away a piece with me; but I am bound to confess, with all respect for Mrs. Tim's skill, that I have never known anything with the name of bread, not even the vilest variety produced in South Germany, which required so much mental resolution and strength of jaw to finish. It was hard outside; pasty and bitter inside. Without the fish and buttermilk it must be utterly unsuitable, especially with so short a period of cooking, for nourishing the human frame.

One of the few pleasant incidents of my visit occurred here. I was informed that a Miss Matilda Dudley, of Ballynacallagh, taught the island boys and girls to read and write. I had in forthwith Tim's two children—Pat, aged thirteen, and little Mary, eleven. I opened a large old-fashioned reading-book, and gave Mary a passage to read. To my astonishment, she read it rapidly and correctly, going over such words as 'privilege' and 'division' without a pause, but of course with a rich brogue. I tried her in another passage, with the same result. Pat, who was terribly frightened, did nearly as well, and could certainly have read a newspaper aloud without much difficulty. I found them, especially Mary, thoroughly well-grounded in the Multiplication Table.

On my way back half the population of the island accompanied me, the rain having ceased, and from one and all in the crowd I gathered the same story. Nearly every man owed from two to three years' rent, and all were evidently apprehensive of the evictions said to be intended by Mr. Payno. It seems that orders for substituted service of writs have been obtained, and that numbers of them are now lying at the Allihies Post-offices, for which reason the tenants of holdings fear to venture there to ask for letters. Many and anxious were the questions put to me on this and other

subjects, and especially as to the probable action of the Land Commission Court. The islanders have all entered that Court, and they were much cast down when I told them that the arrears could not be thus wiped out. 'If,' said one, 'he wants the arrears, he may as well take the turf itself; there is nothing else for him.' I asked whether, if the landlord employed them to make the badly-wanted road over the mountain to the western village, they would work off the arrears in that way, and the proposition was eagerly embraced. It is my firm conviction that these poor people would be willing to pay the arrears if they had the means; but it is clear that they cannot pay in money.

In Ballynacallagh a young woman stood waiting, rather better dressed than the rest, her hair neatly brushed back and bound with a riband, but of course, with bare feet, boots belonging here rather to the class of implements of labour than to dress. This was Miss Dudley, the schoolmistress, who may be said to represent civilisation in this lonely island colony. I had a conversation with her, from which I learned that she taught sixty out of the eighty children on the island, and that they were generally as far advanced as Tim Harrington's son and daughter. She had been four years at a convent school. I was sorry to find that she thought of giving up her office very soon, as 'the Board' would not make any addition to her earnings. The ordinary charge is a shilling a year for reading, writing, summing, and geography, but she charges up to half-a-crown a quarter for a few of the 'finishing' studies. Formerly the Board—that is, the Commissioners of National Education—paid 20*l.* yearly to an old schoolmaster, and allowed him a house; and it would be a great pity if the services of this excellent instructress should be sacrificed for want of so small a sum. She said that she badly wanted elementary reading and spelling books for her pupils, as well as copybooks for practice.<sup>1</sup> After

<sup>1</sup> I believe that parcels of books and other school necessaries, addressed to her at Ballynacallagh, Dursey Island (the cost of carriage being, of course, prepaid), would reach her safely, and she would probably be

a general handshaking with the men, women, and children pressing about me, I embarked for the mainland. The storm had abated; the long green billows sparkled like huge sea-serpents in the rays of the declining sun; and when I was fairly out on the open water, the people of Dursey bade farewell again in two or three hearty cheers.

encouraged to stay in the island. Surely this is a case in which the Commissioners, with their large discretion, might see their way to making an annual grant.



## CHAPTER XXII.

## OUTRAGES.

KILLARNEY: Saturday Evening, December 10.

ABOUT a fortnight ago, after long and careful observation, I recommended an increase of the police force, for patrol and search duty in certain disturbed districts, as the best means of preventing those dreadful outrages by which the 'No Rent' Manifesto is enforced. Martial Law and Trial by Commission, instead of Trial by Jury, could not, as I then pointed out, in existing circumstances be effectively applied. The Government have adopted the plan suggested in every particular; and, if it be vigorously carried out, the best results may be looked for. At the same time it must be still kept in view that if, after a fair trial of the patrol system, the outrages are not reduced in number or in ferocity, a temporary suspension of Trial by Jury may yet be rendered necessary in a few districts, in the interest of the miserable tenants exposed to such brutality. The importance of this question cannot be overestimated. A very slight examination of the facts will show that for want of a sufficient check to these atrocities the situation in Ireland changes daily and rapidly for the worse. A disposition to murder and maim obnoxious individuals, if unable to defend themselves, has been a common and disgraceful feature of every Irish agitation (no matter what political or religious faction promoted it), in the wilder parts of the country, and therefore the promulgators of the 'No Rent' policy are the more blameworthy. The rustic Irishman of the West has a limited intelligence, fitted for the consideration of but one idea at a time, to the exclusion of everything beyond and outside his narrow field of view. He is anxious just now for nothing but the improvement of

his material condition. I have often, in conversation with a small Western tenant, been struck with the keen anxiety he has shown to have his rent reduced; and at the same time his almost total indifference about Home Rule. The desire for a native Parliament at Dublin is the cherished emotion of an Eastern tenant, from his youth upwards; but it is hardly to be met with in the West, except among public-house loafers in the small towns. Mr. Parnell in the Eastern counties appeals to the hearts of his hearers; in the Western, to their stomachs. For a year past the tenant in the West has paid no rent; and on the average he owes at least eighteen months' arrears. It cannot be too frequently repeated that there is very little chance of this money ever being recovered. In some cases, no doubt, a dishonest farmer, not resident in a district afflicted by outrages, who declines to pay his rent, has the money, and much more; and in such cases, after due proof, something like the English method of imprisonment for wilful refusal to obey an order to pay a debt might be usefully introduced. But, as a rule, the Western tenant is a poor man, reckless and improvident, and the little sum scraped together after the harvest has already found its way to the publican's till, or the safe of the 'Gombeon man'—that is, the village usurer. The people were led to believe, if not positively told, for months together, that they need not pay more than they wished; and this doctrine was generally accepted in the widest sense.

Now no such idea was ever sanctioned by the famous agitators of the past. The nearest approach to it was when the late Archbishop of Tuam took a holding in order to be liable for Tithe, intending to refuse payment as a protest against taxing Catholics for the support of what they regarded as the worst of heresies. But from the teaching which has now brought about such great evils the Romish Bishops have held resolutely aloof. Here and there, indeed, a Prelate is to be found taking a conspicuous part in current politics, who, like the famous Geordie Graham, when reproved by James VI., in the course of his sermon, for maintaining error, 'will neither speak sense nor come down.' But as a rule the Clergy have been represented in the agitation mainly by the younger

curates; although it is unfortunately true that some priests have, in order to retain their influence over the people, joined in the movement. The Bishop of Elphin, however, prevented the establishment of a Land League branch in Sligo, and it does not always do a priest good to join the League. One who had resisted it stoutly told me the other day that he had got in all his dues, while a neighbouring Leaguer priest had been compelled by his flock to abate considerably in his demands. What with the eloquent instigation of patriots, the tacit countenance of their priesthood, and it would seem, the politic sufferance of the Government, the deluded tenants were at last persuaded that they had the power to withhold their rents; and there is no doubt whatever that for a time they had such a power, the ordinary machinery of Government being wholly inapplicable to the difficulty. In course of time the country would have righted itself, for the people have in large numbers neglected to pay the shopkeepers, just as they had refused to satisfy the landlords' claims, and the value of contract obligation would very soon have been brought home to them. Another incentive to hold out against paying rent lies in the tenant's consciousness that on making any regular settlement he will have to pay the arrears, and unhappily he has spent the money that would enable him to do so. It is unfortunate that power was not given to the Commission to pay to the landlord, on behalf of the tenant, with or without the latter's consent, say one-half the arrears; repayable by a redeemable land-tax of small amount, ultimately recoverable from the tenant. The necessity of a measure conferring this power being taken in an autumn Session has already been pointed out. My belief that the necessity was and still is most pressing is confirmed by the anxiety expressed upon the subject by every tenant, and many of the landlords with whom I converse. The landlords are now very many of them in desperate circumstances, partly from the non-payment of rent, and partly from the large and by them unexpected reductions effected or threatened by the Sub-Commissions in their incomes. They have therefore begun

evicting on a large scale, and the money for which the Lord Mayor of London is now applying will go to pay bailiffs and emergency men; indeed, it will do much to ease the pockets of the rich landlords, who up to this time have generally left their poorer brethren to their own resources. On the other side, the tenants, if they dare to pay rent in certain districts, are threatened with the fearful vengeance of 'Captain Moonlight.' Until this personage is hunted out of his accustomed haunts, there can, therefore, be little hope of a better state of things. For this purpose not only must rewards of a large amount be paid for information, but informers should be offered a free passage to any place out of Ireland in which they might feel it safe to settle; as was done in the Fenian times.

The areas of outrage to be operated upon are fortunately neither many nor extensive. But as a means of economising, it might be as well to mount as many of the new police recruits as possible, in order that the largest space might be commanded by a given force. Whenever a tenant pays his rent, or is for any reason obnoxious to his neighbours, the fact should be confidentially notified to the Sub-Inspector by the agent or the priest, and a special guard maintained near his house from sunset to dawn. Every road in a disturbed district should be heavily patrolled all night, four men walking together at every third of a mile, and every third party consisting of half-a-dozen mounted men ready to gallop in any direction. This would, no doubt, cost a great deal of money, which, with full compensation to the victim of every outrage, or in case of death to his family, should be exacted from every person in the district, landlord or tenant, able to pay. No one could complain, for the landlord would get his rent, the innocent tenant protection, and the guilty but a small part of his deserts.<sup>1</sup> Every gun and pistol in the possession of a man who has not paid his rent should be taken from him.

<sup>1</sup> I have reason to believe that the Government are doubtful whether the example of injustice which would be set, if they passed a statute rendering the property of numerous innocent persons liable to make good damages inflicted by the guilty few, would not increase the existing demoralisation of the peasantry.

Such precautions would probably be effectual in most cases, and they would certainly save much bloodshed. Let it be remembered that it is only in a few districts that they are required—for no greater mistake can be made than to talk as if the whole island were ungovernable.

By way of illustrating these remarks let me relate what I have just witnessed within a few miles of these lovely hills and lakes. A few days ago Mr. Hussey, Lord Kenmare's agent, published an account of the shooting of three men who had paid their rent to him. In the *Kerry Sentinel*, of yesterday's date, I find the following observations:—'Mr. Hussey's letters are composed of a tissue of disjointed falsehoods. . . . We do not wish to impute cowardice or laziness to any of the priests or local patriots in this matter concerned, but why did not some one say to Mr. Hussey long ago'—and then follows a reference to some unfortunate eviction proceedings of Mr. Hussey, said to have resulted in the death of a child. It is a habit with some Irish newspapers to describe all reports of outrages as untrue, and I therefore yesterday visited the place for myself. After passing through the town, and across the outlying hills, my carman turned down the Raheen Road, eastwards. For twenty miles on every hand was a vast extent of gently undulating land, here and there reclaimed, but part still in its original state of brown bog. The houses were few in number, and at first, on Lord Kenmare's land, of a miserably poor description. But on The O'Donoghue's estate the farmhouses were generally large and well-appointed, and the fields in good condition. At the Raheen school-house, the school-mistress directed us on our way, and gave me some interesting information about her pupils, from which I gathered that they are receiving a sound elementary education. Some miles farther on it became necessary to inquire again, and here a great change took place. The shadow of some mysterious dread was visible on every face as soon as my words of inquiry were uttered. One poor girl blushed painfully as she denied that she knew where the first man shot could be found; although she belonged to the same

village. We were within a few miles of Mill Street, and in the notorious district extending from Castle Island on the west to Mallow on the east, in which no man's life is safe for an hour if he pays his rent. 'Captain Moonlight' and his ruffians here act in bands of sometimes thirty or forty together, under the command of a leader, and are members of a sworn confederacy.

I then passed through Maughantoorig. The people rushed to the doors to view the unaccustomed sight of a stranger on a side car. The country is so poor and unfrequented that my driver, constantly employed for the last twenty years in excursions about the neighbourhood of Killarney, did not even know the main road. Daniel Cronin's dwelling is in a lonely spot, half a mile from the village, faced by the house of a neighbour. He is a man of about fifty, tall, spare, with a ruddy complexion. I was informed at the agent's office that he holds under a lease dated March 10, 1873, for forty-one years, and a life, at a rent of 10*l.*; the valuation being 9*l.* 5*s.* He has always paid his rent punctually, has steadily improved his holding, and refused to have anything to do with the League. As is well known, the tenantry with a very few exceptions on Lord Kenmare's estate have refused to pay their rents; but Daniel Cronin unfortunately paid. Such being the case, there is great blame somewhere for not having the poor man properly protected. I need not say that I had the utmost difficulty in getting any information from him, his wife, or the family. They were certain that the attacking party did not belong to the neighbourhood, but came from a distance; and not one word of repining or accusation escaped their lips. Cronin was lying in great pain in the back room of his comfortable farmhouse. Another person present told me the sad story of the outrage, while the victim occasionally clasped his hands and murmured feebly, 'I forgive them, whoever they are.'

At about eight on Sunday evening, November 2, the family were preparing for bed, with the exception of the son, a fine young man, who was, as ill-luck would have it, away, when a party of armed men, with blackened faces, rushed in.

The leader immediately knocked the lamp off the table, and then stood with his back to the fire, giving directions. First Cronin was strictly questioned as to whether he had paid his rent. His book was called for, and his denials taken down. 'What's this woman doing here?' said the leader, suddenly; and the screaming wife and children were forced into the bed-room. Immediately afterwards they heard a loud report; the door of the bed-room was released, and they hurried back to find Daniel Cronin staggering and fainting, with a great wound in his thigh. The charge of shot had passed sideways through the muscular part of the thigh, half-way between the hip and the knee, behind the bone, fortunately without shattering it. The surgeon had extracted a circular piece of corduroy two inches square, and all the shot, from the opposite end of the wound. Daniel's pulse was firm and regular, and he seems likely to recover; but he is still in deadly fear that the assassins may return. His wife told me, with a choking utterance, that her husband went regularly to mass, and had that fatal day attended it.<sup>1</sup> With a few cheering words, uttered very much against the grain, I left them.

After another half-hour's drive over the desolate bog I reached John Keefe's house at the further extremity of Lisheen; a village containing, I should say, as much filth, ruggedness, and misery as are distributed over a large English town. The inhabitants seemed to be all either frightened, or gloomy and discontented. One morose-looking man stood out with his hands in his pockets; but kept his eyes fixed on the ground until I had passed, refusing to meet my glance. I found poor old Keefe very seriously ill. I felt his wrist, but could not perceive any pulse. Laying my hand over his heart I detected its faint, rapid beating, and could observe that he was extremely weak and feverish. His unhappy wife,

<sup>1</sup> It is remarkable how often outrages are committed on Sunday night. The reason is, strange as it may appear, that the superstitious peasantry will not, if they can avoid it, take the life of a man who is unprepared for death. A man who has paid his rent trebles the risk he runs by going to mass.

over sixty years of age, had done her best for him, from first to last, but he was getting weaker. The villains who had shot Cronin reached here after the old couple were in bed, and broke a pane of glass in order to wake them. Keefe opened the door in his night-shirt. Two boys were kept in the back room while the stern examination about the payment of rent went on. The pass-book and the lease were inspected, and the old man was cuffed about until he leaned, almost stupefied, against the table. Then, while his wife cried wildly to spare his life, and offered to do or pay anything for mercy, a shot was fired before her face. Her husband sank to the ground, which was red with his blood, and the ruffians ran off with shouts and laughter into the darkness. I was shown the hole in the table into which the shots finally penetrated in one mass, and two were extracted and handed over to me. The weapon must almost have touched the man, and the charge tore away the greater part of the calf of his leg. The gang then went on to the eldest son's house, but the old dame told me, and folded her hands with gratitude as she said it, 'He was away, sir, by the mercy of God, and our blessed Lady the Virgin.' The band, however, afterwards injured a third person, and then dispersed. After all this was over the police, stationed at Rathmore, four miles away, commenced their nightly patrol of three hours. I have it on the best authority that the three roads by which the scene of the outrages could be approached were all watched by scouts, planted to give due warning of the approach of the police. To my surprise my carman drove me back to Killarney by another route, and it was only after closely pressing him that he acknowledged he did so for my safety. At Killarney I went to the police station and found the men who had shot Cronin and Keefe locked up there. But no person would give evidence against them; although an intimation had been received by the constables that if Keefe died evidence would be forthcoming. They were all neighbours of the victims. Eventually they must be discharged for want of evidence.



## CHAPTER XXIII.

*THE STATE OF THE COUNTRY.*

KILLARNEY: Saturday Evening, December 17.

THE situation grows more and more serious as the winter advances. In certain districts, thinly populated, but of considerable extent, the ordinary administration of the Government has temporarily ceased. Rents, county cess, and other local rates are not paid; and, as I was told to-day by a priest holding office in a disaffected part of the country, even the incomes of the clergy are beginning to suffer. Whether a supplementary cry of 'No dues' would not, however, assist the restoration of order is a fair subject for speculation. The large number of Irishmen who, though they can well afford to do so, now refuse to pay rent, may persuade themselves that by devoting money contracted to be paid to the owners of their lands to the purchase of spurious whiskey, and to the maintenance of one or two exiles at Paris, they are doing more for Ireland than O'Connell and all the other departed patriots. They may be, as they believe, escaping from the bondage of centuries, but it cannot be denied that they are crawling to freedom through an exceedingly dirty sewer. No great Revolution has ever been accomplished hitherto upon the basis of petty theft.

Be that as it may, the Government must face the certain prospect of a large number of attempts being made to murder and injure well-disposed persons during the next three months. The measures already adopted, if carried out by capable officials, ought to render altogether unnecessary the abolition of Trial by Jury, and the institution of some more stringent procedure. But if so, the additional police must be selected from men of mature age and full discretion; not likely in the

searches for arms to be guilty of any unnecessary intrusion, or outrage upon susceptible people—and Ireland is populated by susceptible, not to say irritable, people. The Inspector-General, therefore, should be allowed to accept the services of that large class of reserve men over forty, the age limited in the recent circular, who have been settled in the midst of the people ever since their retirement from active duty. The recruits, moreover, must be quickly drafted into the disturbed parishes, and in sufficient numbers. I refer to these particulars because they are, at least in some district stations, imperfectly recognised as essential. For instance, I was told by a spruce young sub-inspector the other day, that he thought it was useless to increase the police force, as ‘the roads by which they could operate would always be watched at night.’ The idea of patrolling those roads in sufficient force to impress ‘Captain Moonlight’ with the necessity of staying at home had evidently not occurred to this gentleman, and when it was suggested it was by him superciliously pooh-pooched. Again, it will be of small service to law-abiding citizens to organise, with great pains, an additional force of police ready to take the field when the winter and the winter outrages are past. Only a day or two ago I was told how a retired policeman had applied for leave to join the force in his district, and had been sent off with the excuse that the county Inspector was away for a few days, and that nothing could be done until his return.

Much has been made of some verdicts recently found by Juries at the Assizes, in order to argue that intimidation is on the decline. But this reasoning is somewhat fallacious. The case most relied upon is that of a band of ruffians, who in England could hardly have been preserved, in the strongest gaol, from being lynched. They were convicted of breaking into a woman’s house by night, firing into a bed full of children, and wounding her little daughter. Apart from the unmanly brutality of their conduct, peculiarly odious to the average Irishman, there was this additional fact to account for the verdict of ‘Guilty’—namely, that the offence was in no sense whatever one against the Land League. And

against the verdict in this case may be set the case reported yesterday, where, after the clearest evidence of an agrarian crime committed as part of the 'No Rent' programme, the Jury have refused to convict. No one can blame a Juror for taking this course. It is no exaggeration to say that, in the great part of four counties at least, the payment of rent, or the return of an apparent assassin as 'Guilty,' subjects a Jurymen to the danger of immediate murder. At Cork the Jurors have found a fair proportion of verdicts against the prisoners. But at the Cork Assizes the Juries are regularly packed by the Crown with Protestant shopkeepers, who are smarting under the loss of trade resulting from the operations of the League. Catholic after Catholic is ordered to 'stand by.' I have read the evidence in these cases, and believe the verdicts were right, and the punishments by no means too severe; but it is absurd and dangerous to rely upon verdicts thus obtained, in a populous city, where no retaliation is possible, as evidence of a change of feeling in the country.

Of course this state of things has brought, and is bringing, retribution. A few days ago I read a report in several newspapers that the Earl of Kenmare was about finally to discharge his labourers, and to leave the country. I saw Lord Kenmare yesterday evening, and in the course of conversation ascertained from him that this statement, though not strictly correct, had sufficient foundation to justify some reference to it. It appears that his Lordship is in the habit of spending weekly something like 400*l.* in wages to labourers upon his Kerry estate, a very small proportion of that expenditure being connected with the preservation of the demesne. Over 100,000*l.* has from first to last been laid out upon this property by the landlord. It is Lord Kenmare's invariable practice to present slate and timber to any tenant desirous of erecting a cottago for himself, and generally a kindly superintendence would appear to be extended over the tenantry and their concerns. Lord Kenmare adverted in a tone of courtly regret to my somewhat depreciatory description of his village of Lisheen, and gave an explanation of its condition, which, in all justice, ought to be reproduced. The estate, which is of great size,

was leased in former days to middlemen, who, looking upon the tenants merely as rent-producing animals, allowed them to fall mostly into the pitiable condition of life still observable at Lisheen. From this state of misery it is Lord Kenmare's laudable ambition to rescue them, and, so far as his income will allow, he is devoting himself to the gradual but material amelioration of their lot. It was true, he said, that he had been compelled to give all his labourers warning that he must discharge them at the end of the month, and the reason was a prudential one. Out of over two thousand tenants, only a score or so have paid rent, and the consequence is that no fund has been provided for the payment of the labourers. Lord Kenmare, however, said that as soon as the present terrible state of things had come to an end, it was his intention to return immediately, and resume his duties as one of the few great landlords resident in Ireland.

At Tralee the other day, I was told by Michael, the old waiter at the principal hotel in the town, that he had paid for the outfit and passage to America of his son and his niece last winter, with the most happy results. The son was a carpenter in the employment of Lord Kenmare, earning 1*l.* 8*s.* a week. He obtained work the day after landing in America, and his earnings have since averaged 3*l.* 12*s.* a-week. The niece, who was a dressmaker, is now making about 100*l.* a-year, or more than three times the income of a Western farmer in this country. Stories of this sort, circulated from homestead to homestead, not only stimulate emigration, but make people discontented with their lot in Ireland.

The decisions of the Commissioners now sitting here have, as a rule, given satisfaction to both sides. There are, however, some judgments open to question. In a case of '*Flahive v. Hussey*,' the landlord had bought the farm under the Encumbered Estates Act. He had not raised the rent above the amount paid in 1884, namely, 55*l.* The farm, which was pasture, had obviously increased in value, since the price of dairy produce is higher by about two-thirds. Upon these facts the Commissioners have reduced the rent to 45*l.* In one of the conveyances by the Court I find the following passage in

the authorised particulars of sale:—‘The tenants are respectable and most comfortable; the rents are exceedingly moderate, and may be readily increased.’ Now, I am informed, that although not a shilling has been added to the rents, every one of these respectable and comfortable tenants has dragged the unlucky purchaser before the Commission. In a case of ‘Shanahan v. Denny,’ the tenant holds a hundred acres, principally pasture. He has not, during fourteen years, drained a single acre. He has borrowed nearly a thousand pounds from his friends; he has ten children, and is deeply involved. His rent, which was reduced from 75*l.* to 55*l.* when he took the farm, has been lowered by the Commissioners to 44*l.* In both these cases I made a private inspection of the holdings, and I can testify that Flahive’s consists in the main of good sweet pasture land, that much of Shanahan’s is equally good, and nearly all would be extremely valuable if scored with a few simple stone drains. Facts like these certainly invite comment.

## CHAPTER XXIV.

## THE CONSTABULARY.

DUBLIN, Wednesday Night, December 21.

THE men of the Royal Irish Constabulary, in respect of discipline, loyalty, and, one may add, length of limb, will compare favourably with any armed force in Her Majesty's service. To their vigilance and devotion a great number of persons, too honest and too shrewd to engage in vain rebellion, are indebted for the safety of their property, and the prolongation of their lives from day to day. Their duties are primarily those of police; but they are ready at a moment's notice to act as efficient infantry soldiers, and in some districts just now they are practically what I think Mr. Bright once styled them, 'an army of occupation in disguise.' The character of the Constabulary for sobriety is well established. Their dress is the dark green tunic with the spiked helmet of the 60th Rifles. Their arms are a short snider rifle, a sword bayonet, and, in some cases, a revolver. The force consists of an inspector-general, with four assistants, thirty-five county inspectors, about two hundred sub-inspectors, two hundred and thirty-two head constables, and nearly eleven thousand constables, acting constables, and sub-constables. The Government has very wisely ordered a large temporary addition to be made to this body; but recruits have not come in very rapidly. There is a smouldering dissatisfaction felt at the order that soldiers from the reserve may join and wear the Constabulary uniform. The constables highly resent this; and anyone who knows how superior their character and education are to those of private soldiers can hardly be surprised at their feeling hurt. They fear that the old uni-

form would be disgraced, and desire, that if the soldiers join, they shall wear their military uniforms. The cost incurred in maintaining the force, amounting to about a million pounds per annum, is paid out of the Consolidated Fund, and a further sum has of late years been levied for extra police. The Constabulary are very unequally distributed over the country, and it is noticeable that in four of the most disturbed counties the proportion of police to population<sup>is</sup> lower than in any part of Ireland. Although the constables are drawn from the ranks of the peasantry, they are, of course, extremely unpopular in the disturbed districts. So much depends upon their zeal and energy, that it is obviously a wise policy to keep them contented, and some consideration of their grievances, which they are now very seriously pressing on the attention of Government, may not be out of place. It is understood, indeed, that a commission of officers is now sitting, or is about to sit, for the purpose of reporting upon the matter, and great speculation is indulged in as to what they may have to say on the subject.

I had lately an opportunity of ascertaining the men's views in an unexpected way. Sitting one evening in my room at an hotel in Castletown, during the West Cork evictions, I was somewhat surprised to hear that three constables wished to see me. There was handed me a sealed envelope, containing the following document:—

'Castletown, December 2, 1881.

'Sir,—We, being elected as a deputation for the purpose of bringing under your notice the position and claims of the Royal Irish Constabulary, respectfully request you to grant us a hearing.

'The Special Commissioner of *The Standard*.'

'Three stalwart fellows were forthwith ushered in, the smallest of whom was nearly six feet in height. They had intended to apply to Mr. Herbert Gladstone for an audience, but he had suddenly left Castletown before they could communicate with him. The grievances mentioned to me by these men

appear to be typical, and they may be classified as follows:—First, on the subject of pensions. It seems that up to 1866 a constable or sub-constable was entitled, under a Statute passed early in her Majesty's reign, upon completing thirty years' service, to retire on full pay. A new scale of pensions was, however, laid out in April, 1868, applicable to the cases of men joining after that time. By that scale a man under the rank of sub-inspector, upon retiring after thirty years' service, is only entitled to, or rather qualified for, a pension equal to three-fifths of his pay, with a decreasing scale for a shorter period of service. One condition required as a qualification for a pension is the payment of  $1\frac{1}{2}$  per cent. annually from the men's pay. It is very difficult for the retired men to exist upon these reduced amounts, many of them being broken in health, burdened with the weight of years, and the expense of large families. What they wish is to revert to the old system, to give back two per cent. from their annual pay, and be entitled, as their fortunate predecessors were after thirty years' service, to full pay as pension. 'We are no less loyal or worthy,' argued the spokesman, 'than those who went before us; and why are we less deserving of the consideration of the Government and of the country we faithfully serve?'

The second grievance concerns allowances to married men. The Government gives a bachelor constable his pay weekly, provides him with uniform, arms, and barrack-lodging; but each man has to buy for himself food, boots, and linen. A married man, not being accommodated in barracks, has to pay from 12*l.* to 14*l.* per annum for house-rent and fuel. Though a soldier has cheap rations and canteens, free libraries, recreation-rooms, and useful literature provided for him, the Constabulary are not thus favoured. The married man, moreover, cannot, like a soldier, command free education for his children; or remember, as he lies wounded, that his wife will be pensioned if he dies, and his little ones carefully placed in life.

Another complaint is, that the system of promotion is unfair. When vacancies occur in the office of sub-inspector



they are filled almost exclusively from the sons of the inferior squirearchy, a small number only being given to the sons of old Constabulary officers, upon the nomination of the Inspector-General. Only about a fifth are chosen from the ranks of the head constables. General dissatisfaction, I was informed, also prevails with respect to the promotion of sub-constables to the grade of acting constable and constable. It depends entirely on the sub-inspector and county inspector whether a particular man shall be admitted to the examinations, and it is said that this plan results in favourites of the local gentry obtaining the good graces of the officers.

What I am informed the Constabulary desire is, that all promotions to the rank of sub-inspector, or to any lesser rank, should be made from the members of the next lower rank, after a competitive examination restricted to men who shall have served a certain number of years; a few vacancies being reserved, on easier examination, for deserving men of long service. This plan is already adopted in the case of promotions from the rank of constable to that of head constable, and, so far, is stated to give great satisfaction. Another point to which the three men who visited me at Castletown attached much importance, was an increase of lodging allowance for service out of a man's district, from 2s. 6d. to 3s. a day upon all occasions. One of the men—a bashful giant, well over six feet high—seemed to think, further, that it was a great hardship to forbid a sub-constable to marry until he had served seven years. I should observe, in justice to these men, that they all expressed themselves with the utmost propriety concerning their officers and the Government; but they complained of the cold and hostile feeling exhibited by the populace towards them, and assured me that the poorest accommodation was offered them, and the heaviest prices demanded from them, wherever they went.

The Irish landlords will, I understand, adopt the policy of 'No Surrender' at their approaching meetings. In sixty per cent. of the decided cases they have entered appeals; and, if this proportion of appeals to decisions is maintained, it is clear that the Courts of the three Chief Commissioners will be

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effectually blocked, and the Land Act made waste-paper of. As regards arrears, they will in every case, where there are reasonable grounds to believe that the tenant has the money, be rigorously enforced; and the situation, therefore, can hardly be expected to change for the better. I see that Mr. Herbert Gladstone, in his address at Manchester, makes light of the difficulties in the way of a peaceful settlement. It is no doubt true, as he says, that the number of outrages is—at least in certain of the Irish papers—exaggerated. But how many cases of outrage are there which escape notice and publication? Last week I visited two poor men lying with shattered limbs some fifteen miles from Killarney. To-day I learn by a private letter that a few hours after I left the town a number of men broke into a farmer's house less than a mile away, and fired a charge of small shot through his legs, exactly as in the cases of the two victims at Lisheen. The man's name is Patrick Donoghue, and his only crime was that of purchasing a farm from a friendly and willing vendor. Now this outrage has not yet been noticed in any newspaper, and it had not up to this morning been reported to the police.<sup>1</sup>

<sup>1</sup> The matter was shortly afterwards reported to the local police.

## CHAPTER XXV.

*CHRISTMAS EVE.*

DUBLIN, Saturday Night, December 24.

AFTER nearly two months' hard work, both in and out of Court, the three Commissioners and the thirty-six Assistant Commissioners are about to enjoy a well-earned Christmas vacation. They all need rest and relaxation; and, moreover, it is understood that certain of the lay members of the roving tribunals, having clamoured over countless stone fences, and trotted through unspeakable bogs, must perforce replace their damaged equipments. They might do worse than provide themselves with serviceable skates for inspecting estates which are subject to floods in winter. Thus they might not only turn the severity of the season to account in moving more rapidly over the frozen fields, but relieve the inevitable tedium of court business by an exhilarating and healthful sport.

The first day of the New Year is to be the last of their short holiday. They have been exposed to ceaseless criticism and reproach. Their past histories have been carefully sought out and unfolded in the papers; and the estimated amount of their former income fully set forth. One paper has not scrupled to call them 'mercenary birdlings,' and in public speeches they are compared to the messengers of Ahab, and otherwise abused. A gentleman said to me the other day, 'If I had an estate which one of these Sub-Commissions was approaching, I would take my stand on the verge of it, and the first of them that set his foot upon it, by heaven, sir, I would shoot him.' This kind of language is wide of the mark. No doubt what has been going on for the past two

months is a kind of clumsy revaluation of Irish land, in the course of which injustice may have been done in a few special cases. But it is notorious that, before leaving Dublin for their districts, each of the Assistant Commissioners had to pass strict examinations, in which the Chief Secretary himself took part; and, further, that the necessary principles for determining fair rents were agreed to at a general meeting of the Chief and Assistant Commissioners, and other officials. These principles are easily discoverable from their decisions, and were something like the following:—First, to carry out Healy's clause as liberally as possible; secondly, where neither landlord nor tenant had improved the holding, but the landlord had, without apparent cause, raised the rent, to restore it to the old figure; thirdly, where there were no improvements, nor raising of rents, and no other distinct index of value, to fall back upon Griffith's valuation. All such rules were to be subject to modification upon the inspection of each particular holding by the lay Commissioners.<sup>1</sup> In the poorer classes of holdings in the West, it cannot be denied that the 'live and let live' principle has also to some extent guided the Commissioners. Here there may be ground for complaint against them. At the same time, seeing the misery of the Western occupiers, and administering a statute based upon the idea of fixity of tenure, the Assistant Commissioners would have been more or less than men if they had refused to lower rents.

Gentlemen who complain that these tenants will stay and 'vegetate on two or three acres of land' should remember that there is no escape from the process. I have been told by more than one man in the West how gladly he would emigrate if he had but the money. The Emigration Clause is merely a symmetrical ornament to the structure of the Act, like one

<sup>1</sup> I meant to convey here, first, that before an Assistant Commissioner was appointed to a district, he was examined by the Chief Secretary and others; secondly, that the Commissioners and Assistant Commissioners afterwards, and independently, arrived at certain principles of decision, which might be deduced from their judgments. Remarks by the Earl of Pembroke and Mr. Kavanagh, M.P., upon the passage in my letter, will be found in the Appendix.

of those gilt 'dummy' pipes in a grand organ which are doomed to stand mute for ever in the hurricane of sound. Under the Emigration Clause no tenant has a right to apply singly. There must be a great exodus from thickly populated districts, and the borrowers must be either a foreign state, a colony, or at the least a public company. What is wanted is a scheme—first, for supplying the intending emigrant with tools, outfit, a passage ticket, and food during the voyage; secondly, for lending to the foreign government direct a sum sufficient to transport the settler and his family to the allotted farm, to build him a house, and to provide him with seed and food until the first harvest time arrives. The cost for each family would be about the same as the annual cost of a single soldier in Ireland. There is thus an easy method of reconciling an obdurate Treasury to the inevitable expenditure. If a soldier were withdrawn for every family assisted out, the balance of power would not be greatly disturbed. At all events, since a man going from an overpopulated to an underpopulated country benefits the first more immediately than the second, he should be treated on leaving it as a public benefactor, and duly honoured and rewarded, instead of being thrust out as an enemy, and marooned upon some inhospitable shore.

The Chief Commissioners will sit for the first time to hear appeals at Belfast on January 9 next, and will take cases from the counties Down, Antrim, Armagh, and Monaghan. It is a great mistake to suppose that they cannot meddle with the fair rents fixed by the Assistant Commissioners. Each appeal will be in the nature of a rehearing of the case; and, in the first few cases at least, two valuers of land of unimpeachable ability and fairness—namely, Mr. Murrrough O'Brien and Mr. Grey—will inspect the lands, and report upon their condition to the Commissioners. Here arises a new danger to the Act. Sixty per cent. of the recorded decisions are appealed from, and nearly seventy thousand cases have been entered for trial. If the same proportion of appeals to decisions be preserved, the three Commissioners will have forty-two thousand appeals to hear, which, at the

high rate of ten per week, would occupy them fourscore years and more. Thus the overwhelming pressure of business in the Courts of First Instance, which has vainly been met by the multiplication of Commissions, will be concentrated finally upon the one tribunal of appeal.

There is only one way in which to meet this difficulty—the great mass of the litigants must be induced to settle out of court upon the basis of the decisions in the Chief Commissioners' Court sitting on appeal. At present there are no signs of such an arrangement, the League having set landlord and tenant fairly by the ears. There would be some hope left if more of the great landlords, accepting the inevitable, would make abatements, as the Duke of Leinster and the Earl of Dunraven have done. The great landlords, however, fear that, by yielding to the cry for abatements in the face of the growing determination on the part of tenants to refuse rents altogether, they would be fatally compromising the interests of the large class of landlords whose available incomes would, upon a general abatement, totally disappear. The ill-advised and ill-conducted meeting at the Rotundo on Thursday was principally composed of these lesser landlords, and I would urge this plea on their behalf, that, however indiscreet or violent some of their speeches might have been, they are in the position of desperate men, face to face with destruction. I fear that their generally expressed hope, that the Chief Commissioners upon appeal will, to some extent, restore the old scale of rent, is fated to disappointment. A small enhancement of the fixed judicial rents cannot help them; while a large one would unquestionably destroy any remaining chance of bringing about an accommodation between landlordism and the country at large, and produce a sharper crisis in Irish affairs than it is desirable to encounter. Many of the gentlemen I saw on Thursday at the meeting were old and feeble, without any knowledge of business; utterly unable to compete for a livelihood in the world with trained and younger men. Up to last autumn it was generally admitted that the rental of Ireland was comparatively low, and upon that assumption, probably, it was that certain

assurances were given to the landlords during the passage of the Bill, which disarmed much dangerous opposition, and left no opening or occasion for the introduction of a Compensation Clause. Relying upon those declarations, which were regarded on all hands as justified by the facts, the landlords spared the Bill. It now appears that those complacent assurances have lured many of them to destruction, as they cannot be put *in statu quo*; and they argue that the honour of the Ministry, and of Parliament itself, requires the prompt consideration of the matter. Over and over again I have heard unfortunate landlords express their unalterable faith that the fairness and conscientiousness of Englishmen will make some amends for the mistake into which they fell four months ago.

At the same time, reviewing broadly the work of the Land Courts, I am bound to say that the Act, such as it is, has been fairly administered. I have seen more of its actual working by the different Commissions than, perhaps, any person in Ireland, and I unhesitatingly assert that more painstaking, intelligent, and high-minded men than the great bulk of the Assistant Commissioners could not be found.

One discovers a strange reluctance on the part of the great titled landlords, especially the Whigs among them, to take up the question of compensation. It may be that political considerations stand in the way; but if the sorely-needed Landlords' Relief Fund is not to be provided by Parliament, it would only be fair to pass an Act diminishing all annual charges, including the interest on mortgages, proportionally with the rent out of which they were expected to be paid, and upon the amount of which they were calculated. A downright contribution of say ten years' purchase upon the reductions of rent, raised by Imperial taxation, as the price of a contented Ireland, would be a juster, simpler plan, and one entirely consistent with Parliamentary traditions. I may here mention the encouraging fact that the purchasing powers of the Commission are at last beginning to be put in motion. Under Section 26 the Commission may lend to tenants desirous of purchasing their holdings three-fourths of the price, instead of the two-thirds authorised by the Act of 1870.

Fifty applications have been received under this Section, and the Commissioners have agreed to advance about seventeen thousand pounds. A few days ago they bought an estate in County Down, belonging to a solicitor named O'Donnell, at the request of the tenants. There are twenty-seven tenants upon it, holding in all four hundred and thirty-two acres. Each tenant finds one-fourth of the purchase-money; the Commissioners advance the remainder; and the interest, payable for thirty-five years only, by the tenants to the Commissioners, with the interest at five per cent. upon the one-fourth which it may be assumed was privately advanced, amount together to just about the present rent. Another fact worthy of special reference is the great increase of applications to fix a fair rent from Mayo, averaging about one hundred and thirty a day.

The great difficulty in the working of the Act is of course this very large and unexpected number of applications. A serious error, based upon an insufficient consideration of the litigiousness inherent in the Irish character, was committed in establishing the Land Court. It was no doubt hoped that after a few test cases had been heard all the remaining cases would be settled out of Court. But no Irishman would be willing to pay more than he thought fair, merely because his neighbour in a similar holding had been adjudged liable to pay the same. If the Act is to be worked to any purpose before the present generation has passed away altogether, its progress must be at once accelerated. Either official valuers must be appointed, with an official title and a liberal salary, to go round and value lands, and be ready to give evidence upon the question of value when the Commissioners arrive; or the Commission must be split up, one Lay Commissioner sitting in Court with the President, while the second is valuing a different holding from that before the Court, and next day, the Second Lay Commissioner sitting in Court with the President, while the first inspects a third holding. This question of valuers, so often discussed in these columns, has been at last seriously considered by the Government in conjunction with the Commissioners.



The question of arrears, the importance of which I brought forward some months ago, requires an amendment of the Act, and it still remains to be dealt with. It was hoped that the bishops of the Roman Catholic Church in Ireland might have thought it incumbent upon them, after the issue of the No Rent manifesto, to meet and denounce that document, and the policy of it. One prelate did, in fact, perform his duty individually in this respect, and it is well known that the majority of the bishops disapprove of the latest doctrine put forth by the Land League. But in view of the effect of the French Revolution, not more distinctly agrarian than the present one in Ireland, upon their Church, as seen in the present condition of France, it is strange that some combined protest and sentence has not been fulminated by their Lordships collectively. The truth seems to be that the bishops are seriously discouraged, not to say 'huffed,' by the small regard paid to their recommendations forwarded to the Government. They distinctly advised that sufficient provision should be made for paying the landlord his arrears, or otherwise dealing with them without leaving the impoverished tenantry wholly liable for them. This has not been done, and until an Act has been passed, as apparently it must sooner or later be passed, disposing of this question in the spirit and direction indicated by the bishops, they will not interfere between the Government and the people. The decisions of the Commissioners, cutting down rents nearly 25 per cent., have confirmed them in the conviction that it would be unrighteous to exact arrears due upon the rent-scale thus judicially pronounced excessive. Their action is further hampered by the strong support given to the League by certain of their number, and these by no means the least influential and eloquent. It is this division of opinion which prevents the Pope from uttering any words of counsel at the present juncture. The bishops cannot excommunicate those who commit outrages, for the simple reason that any person belonging to a secret unlawful society, and bound by an oath, is *ipso facto* excommunicate according to the Common Law of the Church. Besides, since the outbreak of the agitation, the attendance at

chapel has notably decreased, and no Whiteboy, or follower of 'Captain Moonlight,' ever presents himself, knowing that without a promise to disconnect himself from his society, which would result in his assassination, he could not obtain absolution. For the reasons above stated, the bishops are averse to taking up the excellent idea of the Bishop of Elphin, to found Tenants' Defence Associations in every parish, for the purpose of fairly working the Land Act in a law-abiding spirit, and protecting the interests of tenants. The Bishop's plan was that the clergy should manage such associations under the presidency of the bishops, and the Government took the earliest opportunity of notifying their willingness to allow, and even support such a scheme. Mr. Parnell and Mr. Egan, however, denounced the contemplated Associations immediately upon hearing of them with an amount of vehemence, which showed they were afraid that the League might be replaced by them. Partly from this opposition, partly from the disinclination of other bishops to co-operate, the scheme has, even in Dr. Gillooly's own diocese, fallen through.

The Commissioners fully realise the urgent necessity for a large and immediate development of the means of dealing with countless applications standing unheard in their books. In the opinion both of the Government and the Commission the plan of sending round valuers, with an official title and a sufficient salary, who, after inspecting the holdings in dispute, should make a confidential report to the Sub-Commissioners, is by far the best. The mere multiplication of Sub-Commissioners, sitting but half their time as at present, besides entailing vast expense, would make a comparatively small impression upon the arrears. But an insuperable difficulty lies in the way of the scheme for appointing official valuers. An amendment sanctioning their appointment was actually proposed in the House of Commons during the debates on the Bill, and negatived. It is accordingly felt that although the circumstances have widely changed, and the House would now, in all probability, agree to such an amendment without a *band jid* division, it would still be highly indecorous to do under the general powers of the Act what the House distinctly forbade

to be done. A middle course will, in all probability, be taken. Under Section 45, the Commission may, with the consent of the Treasury, employ such actuaries, surveyors, and other persons as they may think fit, for the purpose of enabling the Land Commission to carry into effect any of the provisions of this Act. Four or five surveyors of eminence, and a further number, if necessary, will, it is expected, be at once appointed under this section. Their duties will consist in reporting upon the nature and value of lands to the Assistant Commissioners, especially where there is a division of opinion upon a Sub-Commission. Mr. Grey, the agent of the late Lord Derby, will, with Mr. Murrough O'Brien, value holdings for the Chief Commissioners sitting upon appeal. Mr. Grey holds a distinct office altogether, that of Assessor to the Commission, and his reports will, where necessary, be supplemented by those of the official surveyors.

## CHAPTER XXVI.

*THE DANGEROUS AREA.*

DUBLIN: Monday Evening, January 2, 1882.

THE Government have at last recognised the long scouted truth that in politics, as in surgery, force is after all the first remedy for serious dislocations. There are some statesmen, once perhaps in their youth to a greater or less extent acquainted with the feelings and tendencies of the subject masses, who, having been, since they became responsible administrators, dependent for information upon dull subordinates, will persist in legislating as if all minds were passionless and logical—mere machines, the action of which could be exactly calculated and controlled. The predominance of this class has over and over again contributed to the historical misfortunes of Ireland. Only four months ago it seems to have been confidently expected that the rude and savage man of Munster would bow an obedient breast before the rising Sun of Justice, and, after a brief devotional interval, fall to work digging, draining, and reaping, like a Midlothian leaseholder, or a Mediæval Dutchman. The Land Act has not yet justified the trumpeting which heralded its birth, and the largesse which followed. Rents have been lowered in the most startling manner—whether rightly or wrongly is not now the question. Instead of purging ‘landlordism’ of its noxious elements, the Sub-Commissions have begun to devour it like wolves, and seem in a fair way to make an end of it at one meal. And the strange thing is that, after the sacrifice of innumerable victims, no peace follows the Ministerial angaries.

Sundry Ministers, being Irish landlords, have in fact deeply but vainly scored themselves with the legislative knife, while that hunted prophet, Parnell, stands by and mocks them. The Premier's reputation itself is further endangered by the reckless flaying and slicing of landlordism: just as a great surgical lecturer may fatally wound himself with the dissecting scalpel. After throwing a quarter or more of the landlords' share of Irish estates to their tenants, the appetite of the latter grows with what it feeds on. It is now more clamorous than ever, and the political danger of the agrarian movement, which was to be checked by the Land Act, has distinctly increased.

Outrages of an aggravated character were soon discovered to be so numerous that it became almost impossible to direct the necessary investigations and to perform simultaneously the ordinary functions of Government. A Chief Secretary for Ireland is at all times in a peculiarly trying position. He really does the duties of an entire Cabinet. But Mr. Forster has found the added rôle of a military commander-in-chief too much for his energies, and, to do him justice, for his inclination. The country has accordingly been mapped out into military, or, as they are called, 'Constabulary,' districts, each under the rule of a disguised major-general, bearing the innocent-looking civilian's title of 'Resident Magistrate.' To him is committed the command of the military and civil forces within the limits of his small province. He is to improve the system of patrolling, and to effect some mysterious 'changes in present arrangements.' For any such 'changes' the new officers are to be accountable to the Inspector-General of Constabulary, and to the Lord Lieutenant, though it is not impossible that Parliament may also, when it meets, claim to have some voice in the matter.

Now, that there was a necessity for more efficient patrolling in their districts there can be no doubt. To speak plainly, some of the resident magistrates and sub-inspectors required to be stirred up in this respect. Not long since I heard a sub-inspector deprecate the proposed increase in the force as useless. A few nights afterwards a man was shot

within a mile of the station in which he was speaking. Wherever a man has paid his rent, or otherwise opposed himself to the 'No Rent' party, he requires protection. The Government have accordingly selected five determined and masterful magistrates to take charge of the scheduled districts. They are mostly military men; and one of them, Mr. Clifford Lloyd, has already proved what a firm, if somewhat heavy, hand can do in the repressing of outrages. I have been at the pains of making certain calculations bearing on the condition of the twelve scheduled counties, the results of which may be considered worth attention. They comprise in all about ten millions six thousand four hundred and thirty-five acres—nearly half the surface of Ireland. They are inhabited by two millions seventy-nine thousand and seventy-five persons—that is to say, nearly 40 per cent. of the Irish people. Of these inhabitants more than 93 per cent. are Roman Catholics; the general proportion of Catholics to Protestants in Ireland being only 76 per cent. Upon an average nearly 38 per cent. of the people in this area can neither read nor write—the average of illiterates in Ireland, including Ulster, being only 33 per cent. There are, taking these twelve counties altogether, 24 constables to every ten thousand of the population, the average in all Ireland being twenty-one. 55 per cent. of the land scheduled is pasture, as against 40 per cent. throughout Ireland. 24 per cent. is tillage, against nearly 28 per cent. and 18 per cent. of bog against 20 per cent. generally. The small residue of the land is laid out as plantation. The number of holdings valued at 4*l.* and under, is the same as it is all over the country, namely 33 per cent. Other figures, resulting from comparison and calculation of statistics, have, however, to be examined with these. In regard to the sensible rule, by which in future writs may be served throughout Leinster, Munster, and Connaught, and minute parts of Ulster, by sending them through the post, and pasting up copies on the police station nearest to the residence of the defendant, I find that the area covered is in extent about fifteen millions three hundred and thirty-six thousand seven hundred and forty acres—about 74 per cent. on the acreage of Ireland. The population amounts

to three million five hundred and seventy-nine thousand one hundred and forty-nine, or 68 per cent. of the total population of the country. The population of Catholics is 91 per cent., and about 39 per cent. of the inhabitants of this region cannot read or write. 52 per cent. of the land is pasturage, 24 per cent. tillage, and 20 per cent. bog. The proportion of valuations at and under *£*1. is 34 per cent.

The first point noticeable in these figures is the omission of Mayo. Not only are outrages less severe and less frequent than formerly in that county, but the decided rush of Mayo tenants into the Land Commission Court leaves no room for doubting that Mayo men are satisfied with the Act. Another point worthy of attention is the unusual extent of grazing land in the dangerous area. The homely saying that 'Satan finds some mischief still for idle hands to do,' is well exemplified over the vast tracts in the south and west of Ireland, where the people, generation after generation, lead the comparatively idle life of shepherds and herdsmen, and can spare any amount of time for the daily labour of leaning up against a post or whistling over the interminable heath. The idlest regions in Ireland are the most dangerous; and, where the men have no sphere for honest and exacting labour, they seem to busy themselves most eagerly about the impossible programme of the Land League. A stranger entering one of their villages would see in the heat of the day ten or twelve strong fellows lounging about the Court House, near or opposite the hotel where the mail car waits; and if he were to question them he would find that they neither have work nor the hope of work. Since 1851 more than two and a half millions of persons, equivalent to 45 per cent. of the existing population, have emigrated. Yet it was proved a short time since that there are more than nine hundred thousand young persons, besides adults, in Ireland, able to work, who are without employment. All useful industries, with an exception to some extent in the case of the woollen trade, are declining, or have perished. When the American and Canadian meat and corn trades are fully developed, the value of

the Irish grazing lands must be lowered, more people will be thrown out of work, and fresh troubles must arise. The great unemployed masses in Ireland are in fact a standing danger to the State, and present a continual temptation to the ambitions and designs of revolutionary agitators. All kinds of immoral and inhuman ideas flourish in the listless minds of these idle folk, as all sorts of foul growths will sprout in a stagnant pool. If industries, for which there is ample opening, that would provide the people with continuous occupation can be encouraged and developed by patriotic capitalists, the future of Ireland would be assured. Until then, however, the true and statesmanlike treatment is evidently to imitate the process by which patriarchal men originally prevented any congestion of population, namely, by conferring upon their superfluous children a portion and a blessing, and then sending them forth to settle where there was room for them. The old disinclination to emigrate is rapidly diminishing, however much the feeling against leaving the country may be magnified by political leaders, anxious to keep possible voters in the kingdom at any cost. When once emigration is made, as it ought to be, safe, comfortable, and honourable, population will rapidly adjust itself to the means of decent subsistence. wages will rise, and discontent disappear.

Outside of the Land Commissioners' offices I have not heard a single Irishman express his belief that the Land Act would put an end to the troubles of the country. It can hardly be said that more rent is being paid. The common demand that the suspects shall be released before payment is made is quite sufficient to show that the people, having got in the harvest, still cherish the foolish notion, diligently preached from Paris, that they can hold it. The policy of this teaching is first to ruin and displace as many landlords as possible; secondly, to exasperate the people against English rule by the spectacle of evictions on a large scale. No word is uttered by the League leaders still at large, expressive of the horror which every uncorrupted nature must entertain towards the outrages committed in certain League-



ridden parts of the country.<sup>1</sup> The landlords again appear to be only too ready to fall into the trap set for them. The Property Defence Association, moved by the real distresses of the small landlords, and by way of justifying the patronage of my Lord Mayor, are making ready for an evicting campaign. The Government, by the appointment of Mr. Clifford Lloyd and his colleagues, have approved of the Association policy, at least 'in Ireland;' and Mr. Patrick Egan, so far as one may judge of a man by his actions, must be rubbing his hands gleefully at the prospect. I am obliged to point out that the landlords, by enforcing arrears—that is, rents previously due upon a scale now pronounced by every Sub-Commission, without exception, to have been one-fourth above a fair rent—will be putting themselves, in the eyes of the people, in the wrong. If the old rent was fair, they should not have passed the Land Act; if it was unfair, and the Land Act was properly passed, they ought not to exact arrears based on the old rent. It is the Government which, having by its assurances impaled the landlords on the horns of this dilemma, are morally bound either to extricate them or to give place to any who will do so. A rackrenter pure and simple deserves no sympathy. But it was admitted by the principal members of the Cabinet that such men are the rare exception amongst Irish landlords. It is an undertaking worthy of the highest powers, of the undisputed sway of genius, to preserve to the English Crown a dependency so near and so essential to it as Ireland. But it ought not to be preserved by denying justice upon a quibble, and by holding to a bad bargain men who are now more helpless than the poorest of their tenants.

<sup>1</sup> Shortly after this was written Mr. Davitt is reported to have expressed his horror of outrages upon animals. The report does not state whether the outrages upon human beings had been made known to him.

## CHAPTER XXVII.

*LIFE IN COUNTY LIMERICK.*

LIMERICK: Tuesday Night, January 10.

THE leaders of the agitation have latterly maintained some semblance of political activity by the institution of grand poaching forays, dignified by the name of Land League Hunts, into the preserves of obnoxious proprietors. Having regard to the doctrine that 'Charity covereth a multitude of sins,' the organisers of these expeditions hold that the stealing of game to garnish the table of their imprisoned brethren is a sin properly and primarily within the purview of this adage. Some landowners have meekly submitted to such outrages, but the number and significance of the unlawful gatherings have rendered it impossible for the Government to look passively on.

On the afternoon of New Year's day, while the congregation of Murroe, a village about twelve miles to the east of Limerick, were at prayers, a man on horseback rode through their little street, rapidly affixing to trees and walls a placard in the following terms:—'Notice.—Fail not to come. All men are requested to attend at Barrington's, Glonstal, to hunt and put down that tyrant, on Friday, January 6.' On the same day similar notices were put up in every neighbouring village, and even over the borders of Tipperary. In the evening threatening letters were delivered, warning the tenants not to attend the Rent-Office next day, on pain of death, and shots were fired close to the houses of three tenants. Sir Croker Barrington is the owner of Glonstal Castle, and a fine estate, in the north-east angle of County Limerick, and, as his

tenants are prosperous, with large rich grazing farms, he has seen fit to ask his rents of them as usual. One of them, an unscrupulous, malevolent person, has been stirring up dissatisfaction amongst his fellows, and it is said that he posted up the notices.

The hunt might have been possible a few weeks ago, but unfortunately for the chances of sport, Major Clifford Lloyd, the most vigorous of the new superior Resident Magistrates, has just made Limerick his head-quarters, and the contemplated field of operations was directly under his nose. On January 5—that is, Thursday, the day before the hunt—the Lord Lieutenant's proclamation was put up, forbidding the meeting as unlawful, and warning all persons from taking part in it. On Thursday night, fifty men of the Rifle Brigade arrived from Cork.

On Friday Major Clifford Lloyd himself took a body of one hundred men to prevent another hunt, also announced for that day, which is the old Twelfth Day, and a general holiday among Roman Catholics. I accompanied the Murroe expedition. We proceeded to the place of assembly before dawn had broken, but two hours elapsed ere all the preparations were complete. Then we set forth, in a long procession of cars, through the sullen ranks of townspeople, the moon still showing of a pale gold colour in the morning sky. I was on the first car, with an old sergeant in charge of the Limerick contingent of police; and two sub-constables balanced us on the other side of the vehicle. Then came two cars, each bearing four sub-constables, and a string of cars carrying fifty men of the 76th regiment, under Major Huskisson, with two other officers and the regimental surgeon. All the men had their rifles and side arms, and were provided with forty rounds of ammunition, partly ball and partly buckshot. After a drive of some twelve miles, we reached the Murroe police barracks, and found the remainder of the force already assembled. There were in all, excluding officers, 172 men drawn up, consisting of the fifty soldiers already mentioned of the 76th, fifty of the Rifle Brigade from Cork, thirty-two men of the 31st Regiment, twenty troopers of the Scots Greys under

Lieutenant Hawley, and twenty constables under Sub-Inspector Truscott.

Glenstal Castle stands on some rising ground in the centre of a large park, and on every side is overlooked at the distance of one or two miles, by lofty green hills. The Limerick road, after touching the Park on its southern border, at Murroe, continues along the easterly border in a northerly direction, and a branch of this road runs along the western side of the Park to Newport, in Tipperary, some four miles away to the north. There is a valuable preserve of pheasants and hares at Cappanuke, two miles to the south-east of Glenstal, and here a gamekeeper named Hayes has a little house. He is very much disliked by local trespassers, from a habit he has acquired of shooting strange dogs, and of summoning their masters before the nearest magistrate. Shots were fired in his yard not long since, and his wife goes in nightly fear of another attack. His mother would not go to bed at all on Thursday night. It was expected that the 'boys' from the notorious New Pallas, which lies some five miles to the south, would break in at this point, and accordingly Captain Hatchell, R.M., with thirty soldiers, under Captain Hill, and a few policemen, marched to a sheltered spot near Hayes's house. The magistrate and I, with a guide bearing a huge bludgeon, were the only persons in civilian costume, and of course we received very unfriendly glances as we proceeded through the village, in front of the troops. A black and treacherous bog had to be crossed, and the daintily accoutred soldiers were in a sad plight before they reached Cappanuke. 'This is bloomin' bad travellin',' grumbled one warrior, with a strong Holloway accent, as he scrambled out of a deep hole. 'It's a soft place to fall in, anyhow,' rejoined a much-bemired comrade at his side; and the philosophy of the retort provoked some chuckling. This detachment was fated to inaction. Captain Hatchell placed sentinels on the rising ground all about the post, and, with a telescope under his arm, made continual rounds until dusk. At one time a small number of men were seen hunting hares about a mile away on a neighbour's land, and during the day the soldiers were carefully watched from the heights

intervening between Cappanuko and New Pallas, but no collision took place here.

A second detachment, under Captain Lloyd, J.P., was posted at Puckawn, on the north-east corner of the Park; a third, under Mr. Powell, J.P., at Coolnahilda, the south-west corner; and a fourth under Major Rolleston, R.M., at the Castle itself. Sixteen troopers of the Greys were drawn up behind a wooded hill, a little to the west of the Castle, but still within the Park, and all was in readiness. It will be observed that no force was shown at the north-western angle of the Park. Through this angle it was believed that the Tipperary 'boys' from Newport would advance, and walk into a veritable trap. This skilful disposition of the forces was due to a suggestion of Mr. Barrington, the eldest son of the present baronet, at a little council of war held at the barracks, and was unanimously approved. Mounted men and sentinels were posted on every height, and at noon exactly an advance of 'the enemy' was signalled. Looking northwards, one could make out a disorderly mob of perhaps five hundred men streaming down upon the Park, waving their sticks, shouting excitedly, and every now and then starting a hare, which would double back, and then be clubbed to death. Many of them were very young men. One or two had guns, but they were not used. The invaders headed tumultuously in the direction of Mr. Powell's party at Coolnahilda, but the instant they saw the red coats they broke away eastwards, towards the hill concealing the Scots Greys. By some misunderstanding the troopers had been withdrawn, but Mr. Barrington moved out at once, with half the garrison of the Castle, straight upon the 'enemy.' The Newport men then halted, and for the moment it looked like fighting. The distance between them and the soldiers was about two hundred yards. But before the steady tramp of the military the 'boys' bore backwards, turned, and began to retreat in leisurely fashion along the Newport road. In the meantime Mr. Powell's party, now joined by Major Rolleston, had marched due north, and had got almost between the strangers and their way home. Captain Lloyd having been

directed to aid in cutting off their retreat had also taken his party at the double from the north-east angle of the Park, round Puckawn Hill, in a westerly direction, driving before him a smaller band of marauders. The consequence of these combined movements was that at the bridge crossing the River Annagh a number of the flying foe were hemmed in by three bodies of troops coming from the south, south-east and the east; and twenty-five of them, including one of Sir Croker Barrington's tenants, were collared one after another. The soldiers delivered their prisoners to the constables, who came up breathless to the crestfallen sportsmen, took down their names in order that they might be summoned, and then released them. The remaining fugitives were chased over the fields for miles by the troops, and forced across the river Mulkear. One man presented a pistol at a watcher's head, but no person on either side, I am happy to say, was injured during the day's operations. The twenty-five prisoners will shortly be prosecuted for riot and unlawful assembly before the Petty Sessions Court at Murroe.

It was growing dusk before we started to return to Limerick, and the wearisomeness of the journey was somewhat enlivened by the spirited racing of the carmen one against the other. I sat with the magistrate upon the second car, but, despite his wrathful remonstrances, our charioteer resolutely preserved his pace. At last there was a sharp halt in front, and a succession of collisions ensued in the darkness behind us, like the bumping of railway trucks when the engine meets them. Amid the laughter and shouting it was difficult to understand the cause of the stoppage, but presently we saw the white gates of a railway gleaming across the road. A train was due: but the foremost carman poured forth a volume of entreaties and remonstrances, the gates were opened, and at racing speed we were whirled over the crossing, my infuriated co-passenger shouting to the gateman. 'Shut the gates, sir; there are twenty cars coming on behind!' I was glad to see a gallant Major attached to the expedition come in to dinner afterwards whole and un-ruffled, without so much as a spot of mud upon his uniform.

On Friday I took an early train to New Pallas, bearing the necessary authorisation from Major Clifford Lloyd. This notorious village is situated in a fertile valley near the Tipperary border, some thirty miles south-east of Limerick. The pasture here is famous throughout Ireland, and the farmers amass considerable sums of money, which they bestow upon their children on marriage, living themselves always in most frugal fashion. The population of the district has always been celebrated for its ferocity; and in this respect the 'boys' of Old Pallas, a village two miles to the south of the first, were ever pre-eminent. About thirty-five years ago, it is said, some Old Pallas men having killed an enemy, unearthened the body on the day after the funeral, and set it up on end against the churchyard wall, in token of undying hatred. I told the Sub-Inspector of New Pallas that I wished to see something of his notorious district. He forthwith took me to an inquest then sitting.

Last Monday week an unfortunate stranger from a village a few miles away brought in three beasts, and sold them for twenty-three pounds. He afterwards, to quote his dying words, 'Fell in with some bad boys,' who, holding large stones in their hands in the Old Pallas manner, proceeded to beat in his skull in the public square. The police know very well who committed this crime, and so does every person in the village, and other deeds as foul are imputed to the criminals in question. But witness after witness gave evidence in the stuffy little room (adorned only with a portrait of Mr. Dillon, M.P.), that he had seen this and that, but knew nothing about the beating; and a verdict was returned that the poor victim, lying in his shroud three doors away, had been killed 'by some person or persons unknown.'

In the company, by Major Lloyd's desire, of a constable, I walked along the road leading northwards through Nicker. This is another fighting village, built on the side of the mountain, and overlooking the surrounding country for miles and miles in every direction. A few years since a pew in the village chapel was devised by will. The disappointed legatee brought his partisans into chapel; the devisee attended with

his, and a furious conflict between the factions raged in the aisles for the possession of the fatal bench. The large bell of the building is not without its profane uses. On the approach of a sheriff with his men it has often been loudly tolled, so that the beasts of the defaulting tenant might be promptly driven amongst his neighbours' herds, and thus be unrecognisable. I called at the house of a man named Flynn, who was formerly bailiff to a local landowner. After the last conviction at which he assisted, he was with difficulty saved by the police from the inhabitants of New Pallas, and has now two constables in his house every night. He is hooted by his neighbours. He dare not attend a fair to sell his butter or stock, and if he were left unguarded, would in all probability be put to death. After his last child was baptized he tendered 'the accustomed dues' to the priest of Nicker, Father Ryan. 'No,' said that amiable divine, 'I will not touch the money of a Judas!' I next visited the dwelling of Captain Lloyd, in New Pallas itself, hard by the huge police barracks. From this house the gallant Captain, who is a short, broad-shouldered, black-bearded, merry-hearted man of some fifty years of age, made last year excursions in the early morning hours, until he had seized enough cattle in the valley to satisfy his cousin Marshall Lloyd's claims for rent. The house is a slated building, of very solid construction, divided into three rooms, with lofts overhead. The third room was further cut into two by a lath and mortar partition, and the half of this room nearest the window at the back was for some time occupied by Captain Lloyd as a bedroom. On last Michaelmas Day, however, it was unoccupied, but in the second part of the room were two constables. The Captain, the emergency men, and the constables, eleven in all, were alarmed in the night by a deafening explosion. Some one had placed a keg containing twenty-five pounds of blasting powder on a stone ledge outside the window of the supposed sleeping room, and attached to it a lighted fuse, thus hoping to make sure of the Captain. The partition disappeared altogether, the nearest doors were reduced to fragments, and the two slumbering constables blown through the doorway into the second room. The walls



are still blackened by gunpowder. All round the house is a wide gap under the roof, which was actually lifted up, but fell back by its own weight, and the building is otherwise shattered, split, and injured. Strange to say, no one seems to have been hurt in the least—a not uncommon result in cases of this kind. Sentries now guard the house on the outside nightly, and the Captain, expecting an attack from the open land in the rear, has built a projecting angular field earth-work, or Redan, as it is technically called, over which his men can fire. He has established himself firmly, and will not be frightened, beaten, or blown out of his stronghold. Not long since he was attacked in the open street of New Pallas, and fired, killing a mule.

My last visit was to a farm called Garranmore, a mile out of the village, occupied by Emergency men. As I walked down the road with the sub-constable I was loudly hooted; which my attendant coolly explained was the natural result of my having been seen going about so much with the police during the day. At one point in the road I was shown a large tree in the angle of a wall, behind which tree the assassin was concealed who shot M'Kenna, the caretaker at Garranmore, some two months ago. The Garranmore hut contains seven men armed, one of whom is on duty every night as sentinel. In the farmhouse, a few yards off, are the Emergency men, determined young fellows, one of whom is a carpenter, and the other a shoeing smith. The hut is a bullet-proof wooden building, faced with concrete, and contains two rooms, both loopholed all round for defensive purposes. It is plainly furnished in deal, and is warmed by means of a stove. There are eleven of these protection stations in the New Pallas district alone, each garrisoned by from two to four men; and there is a military station also close to the village, at Mount Catherine, containing fifty soldiers. This drain of constables for protection duty has left almost none for the important business of patrolling; and the Constabulary seem to be resolutely opposed to the introduction of soldiers from the Reserve as temporary constables, wearing the Constabulary uniform. Major Clifford Lloyd has already solved the difficulty. Pro-

tection duty will be performed by soldiers; and the constables, thus relieved, will be set about their proper work of patrolling. As I proceeded in the evening to New Pallas Station, on my return to Limerick, I met a detachment of the Scots Guards marching in, for the first time, to occupy the different protection posts. Captain Lloyd speedily made half-a-dozen comfortable in his block house, and commanded pipes to be lit all round. What with the Captain's warm welcome, the receipt of extra pay, the novelty of the situation, and the consciousness that they had been selected to garrison the most dangerous place in all Ireland, the red-coats looked contented enough.

## CHAPTER XXVIII.

*THE DUNSEATH CASES.*

LONDON: January 19.

On January 18, 1882, after a delay of five months, a final judgment of the Land Commission, fixing the 'fair rent' for a farm, was pronounced at Belfast, and incidentally two questions of supreme importance to litigants under the Land Act were determined. The matter before Mr. Justice O'Hagan and his colleagues, sitting on appeal from the Antrim Sub-Commission, was a typical Ulster case. The tenant, David Adams, held upwards of forty-two acres of Mrs. Jane Dunseath, the rent being 36*l.* 10*s.*, and the Poor Law valuation, 24*l.* 10*s.* Mr. Grover's Sub-Commission, at Ballymena, lowered the rent to 30*l.* 15*s.*, and costs were adjudged to the tenant. It appeared from the evidence that the father of Adams had bought, in 1846, from a previous tenant, one James M'Kee, the interest in a lease of great part of the farm for thirty years, dated in November 1845, at a rent of 26*l.* 11*s.* 6*d.*, James M'Kee receiving for his interest the sum of 420*l.* Another part of the farm, consisting to some extent of bogland, was held at a comparatively low rent. David Adams and his father, during the term secured to them, made numerous improvements. In 1876 Mr. Raphael, a 'valuator,' was sent to view the holding, no longer held under lease; and upon his estimate the rent was raised to 36*l.* 10*s.*, including, however, 4*l.* 10*s.* a-year for the bogland. This witness confessed, candidly enough, in cross-examination, that he had usually valued lands 'for an increase of rent.' He had 'taken no improvements into consideration,' but had added to the rent because 'stock was selling dearer.' He did not controvert the state-

ment of the tenant's witnesses, that the tenant-right was worth 12*l.* an acre, without counting the goodwill; or, as one witness put it, that the tenant's improvements had added 12*l.* an acre to the value of the land. He could say nothing against the view strenuously maintained for David Adams, that a 'fair rent' should, under the 9th Clause of Section 8 of the Act, be reckoned without any reference to the increased value thus conferred upon the holding by the tenant's labour. Most damaging of all was the discovery by Mr. Justice O'Hagan of what might be an accidental coincidence. 'There is,' said his Lordship, 'a most remarkable circumstance in connection with this increased rent. I see that to the old rent there was added exactly one-fifth to make up the new rent.' This calculation, which excludes the separate rent of 4*l.* 10*s.* for the bog-land, would amount to an arbitrary increase of 20 per cent.

Such evidence raised a question of vital import to Ulster tenants. The improvements were, it will have been observed, *made during the existence of a lease*. In many thousands of tenancies in Ulster to hold that for improvements made in such circumstances rent might still, notwithstanding the Act of 1881, be charged by the landlord against the very person whose industry and capital had created them, would be practically to repeal that Act. By law, when a lease expired by efflux of time, the interest in improvements ordinarily reverted to the landlord, as in the common case of a house put up under a building lease. The 4th Section of the Act of 1870, however, gave the Irish tenant the right to claim compensation for improvements effected by himself or his predecessors in title. So jealously was the application of this provision watched and disputed, that the question was almost immediately raised, whether a break in the title forfeited the right of the tenant to recover for improvements made prior to it. The matter in dispute must obviously be decided upon considerations which affect the answer to the inquiry whether, under the analogous Clause of Section 8 of the recent Act, rent may be demanded for such improvements. The first

case, and the most famous one determined under the Act of 1870, was that of *Darragh v. Murdoch*. There the improvements had been made by the claimant's father under a lease which expired in 1866. The claimant entered into possession in succession to his father, obtaining a new letting. A notice to quit having been served, and a claim filed, it was contended that the father was not the predecessor in title of the claimant. Mr. Justice Fitzgerald, who tried the case, ruled that the tenant was entitled to compensation for improvements made by himself only. The technical reasoning which necessarily prevailed with the Judges in such cases never convinced the wrathful farmers, who thus heard themselves argued out of the benefits they had been led to believe the Act would confer upon them. There can be little doubt that the first of Mr. Gladstone's ventures in Irish land legislation was to a great extent nullified by such 'nice sharp quilllets of the law' as provoked Mr. Justice Fitzgerald's decision in the celebrated case to which I have referred. The lawyers, who had succeeded in neutralising or paralysing the first measure, very confidently attacked the second, upon similar grounds, before the Assistant Commissioners. Thus the point settled at Belfast in the case '*Adams v. Dunseath*,' was originally started in the hearing of the Crawford cases, before the Second Sub-Commission, at its very first sitting. Upon that occasion it was strongly and successfully urged by Mr. M'Mordie, the able advocate of the tenantry in these disputes, that to hold the landlord's view to be right would be to stultify the Legislature itself. Mr. M'Mordie's contention has now, for good or evil, received the definite ratification of the Chief Commission. It is true that Mr. Vernon, the lay member of the Appeal Tribunal, has dissented from the opinion of his colleagues; but upon a purely legal question his opinion will not go for much. The owners of land, perhaps, indulge yet a hope that, on a further appeal to the Supreme Court in Dublin, they will obtain a modification of this decision; but a little study of the powerful reasoning contained in Mr. Justice O'Hugon's judgment should cause the hope to waver.

The Chief Commissioners have confirmed the Assistant Commissioners' estimate of a fair rent in this particular case; and the fact is worthy of notice, first, because the reduction effected by the inferior tribunal was of considerable amount; and, further, because the Chief Commission employed the services of Mr. Murrough O'Brien and Mr. Grey, independent valuers of the highest skill and reputation. The eyes of the landlords must therefore be opened at last to the full extent of the damage inflicted upon them by the new Land Act. Mr. Justice O'Hagan, in delivering the decision of his Court, said that he and his colleagues were now settling 'principles upon which the Courts must in future act.' If that be true, the success of the Land Act, in Ulster at least, is in one sense secured, but at a terrible cost. It is an open secret that a weighty motive of the framers of the measure was the desire to conciliate the one province of Ireland which was, and ever had been, industrious, prosperous, and loyal. The meetings of tenant farmers which have lately been held in the North were notoriously held for the purpose of influencing the action of the Assistant Commissioners; and certain members of Parliament went so far as to arrange an intimidating demonstration, in Belfast itself, for the very week in which the Chief Commission was expected to sit there. The Chief Commissioners have, let us assume, quieted Ulster at the expense of the owners of property. It is not to be supposed that the decision just given can do aught else than encourage the remaining Sub-Commissions, roaming in the South and West, to abide by and even to increase the rate of reduction of rents already adopted by them. The state of things contemplated by the principal speakers at the landlords' mass meeting, lately held in the Exhibition Palace at Dublin, would therefore appear to have been brought about. The real effect of the Land Act upon the property of Irish landlords may now be ascertained with mathematical accuracy. Whether the landlords will at once formulate their long-deferred claim for compensation from the imperial exchequer, or meekly submit to be mulcted for the common good, remains to be seen. They will now, perhaps, agree with those who warned them when

they determined to suppress all allusion to such a claim at the great meeting already referred to, that in relying upon the Chief Commissioners to reverse the findings of the inferior Land Courts in Ulster, they were not only deceived, but self-deceiving.

## APPENDICES.

### APPENDIX A.

ON Monday, October 24, the statement set out below appeared in the *Freeman's Journal* :—

The following is an outline of an interview which took place a few days ago in Kilmainham between Mr. Parnell and the writer, who has kindly furnished us with a summary of what took place on the occasion—

What effect will your arrest have on the policy of the League ?

Taken by itself my arrest would not have necessitated any change in the policy laid down by the National Convention, as I had been able to perfect the machinery for carrying out the resolutions adopted by the representatives assembled in the Rotundo. But the subsequent arrest of the leading members of the Executive and the leading members of the League practically deprives me of the power of carrying out these resolutions, as the details necessary to be attended to would have required the greatest care and attention of the different heads of departments of the Central Executive. These gentlemen are now in prison, and it would be impossible to supply at short notice successors to them sufficiently capable and experienced for the difficult and complicated task of testing the Land Act. The Executive has, therefore, felt itself compelled to abandon that portion of the resolutions which directed them to make this test, and, instead of the more moderate policy, to adopt the oft-recommended and bolder one of a general strike against paying rent to Irish landlords.

Do you believe that the farmers will take your advice and refuse to pay rent ?

I think they will to a great extent. We must recollect that fully one-half of the Irish farmers cannot hope to obtain any benefit from this Act, even though it should fulfil the expectations of its most sanguine admirers. There are, first of all, the class of leaseholders who entered into their leases previous to 1870, over one hundred thousand in number. Next we have the dairy farmers and other tenants who have entered into consolidated holdings since the



famine of 1847, and who, having made no improvements to speak of, would practically have but little interest in their holdings: thirdly, we have the tenants on the great estates belonging to absentee proprietors whose rents are not higher than the standard which will probably be adopted by the Court as that of a fair rent: lastly, there are the small tenants, sunk in arrears to their landlords and debts to the shopkeepers. This class, I am disposed to think, would obtain a considerable reduction from the Court, but they would not reap the benefit, since they would be compelled to sell their new interests in order to pay off these arrears and debts. On the other hand, the training which the people have had during the past two years in a modified form of a strike against rent has, I hope, sufficiently prepared them for the greater exertion now required. If the farmers stand firm in this strike for one short year they must inevitably bring both Government and landlords to their knees. This fight is nothing more than a question of money and courage, and as Gladstone evidently intended in any case to dragoon the country, it was just as well that the country should get some adequate results in return in the shape of free land.

Can you call to mind any incitement to acts of intimidation contained in your speeches?

I was always very careful to avoid anything which could be construed into an incitement, or which could be taken by any of my audience as being an incitement, to any act of intimidation or violence, and it is a somewhat remarkable fact that, as indicated by the warrants, these offences of which Mr. Forster has reasonably suspected me must have been committed in Dublin, and must have been contained in one or two speeches delivered by me at the usual weekly meetings of the Land League—speeches which were by far the most moderate of any of mine since the commencement of the land movement. The principle, however, on which the Government is proceeding seems to be this. That any advice or recommendation given by me, or any of the other leaders of the movement, to the tenant-farmers or labourers is intimidation. In other words, the way in which they are now putting the Coercion Act in force is the most absolute abrogation of the right of freedom of speech, of discussion and consultation, which has ever obtained in any country. In taking this course the Government have practically rendered it impossible for the farmers either to test or to safely use the Act. I had always been one of those who believed that it might be possible to use the Act in such a way as to secure substantial benefits for the agricultural classes of Ireland, and I opposed the more extreme Land League party who desired to reject it entirely at the recent Convention, but I was firmly convinced that the Act could only be safely used in an organised and systematic fashion, and that if the farmers were left without organisation, assistance, and advice, the result would be, as in the case of the Act of 1870, disappointing.

## APPENDIX B.

(On October 21, 1881, the following Proclamation appeared together in the *Freeman's Journal* :—

BY THE LORD LIEUTENANT OF IRELAND.

## A PROCLAMATION.

COWPER.

WHEREAS, an Association styling itself 'The Irish National Land League' has existed for some time past, assuming to interfere with the Queen's subjects in the free exercise of their lawful rights, and especially to control the relations of landlords and tenants in Ireland :

And whereas the designs of the said Association have been sought to be effected by an organised system of intimidation ; attempting to obstruct the service of process and execution of the Queen's writs, and seeking to deter the Queen's subjects from fulfilling their contracts and following their lawful callings and occupations :

And whereas the said Association has now avowed its purpose to be to prevent the payment of all rent, and to effect the subversion of the law as administered in the Queen's name in Ireland :

Now, We hereby warn all persons that the said Association, styling itself 'The Irish National Land League,' or by whatsoever other name it may be called or known, is an unlawful and criminal Association ; and that all meetings and assemblies to carry out or promote its designs or purposes are alike unlawful and criminal, and will be prevented, and, if necessary, dispersed by force.

And We do hereby warn all subjects of Her Majesty the Queen, who may have become connected with the said Association, to disconnect themselves therefrom, and abstain from giving further countenance thereto.

And We do hereby make known that all the powers and resources at our command will be employed to protect the Queen's subjects in Ireland in the free exercise of their lawful rights and the peaceful pursuit of their lawful callings and occupations ; to enforce the fulfilment of all lawful obligations ; and to save the process of the law and the execution of the Queen's writs from hindrance or obstruction.

And We hereby call on loyal and well-affected subjects of the Crown to aid us in upholding and maintaining the authority of the law and the supremacy of the Queen in this Her realm of Ireland.

Dated at Dublin Castle, this 20th day of

October 1881.

By His Excellency's Command,  
W. E. FORSTER.

## LAND LEAGUE PROCLAMATION.

The action of the Government for the past week, culminating this evening in a Proclamation which practically announces their determination to resort to armed force in order to prevent the Irish people exercising their constitutional right of public meeting, makes it the duty of the Central Land League to call upon the people, whilst remaining firm and unbroken in their attitude of passive resistance, to abandon for the present all projected public meetings in connection with the League which could be taken advantage of by the authorities to carry out their designs.

By Order of

THE EXECUTIVE.

39 Upper Sackville Street,  
October 20, 1881.

## APPENDIX C.

*Extract from Section 4 of the Act of 1870.*

4. Any tenant of a holding who is not entitled to compensation under sections one and two of this Act, or either of such sections, or if entitled does not make any claim under the said sections, or either of them, may on quitting his holding, and subject to the provisions of section three of this Act, claim compensation to be paid by the landlord under this section in respect of all improvements on his holding made by him or his predecessors in title.

Provided that—

(1.) A tenant shall not be entitled to any compensation in respect of any of the improvements following; that is to say,—

(a.) In respect of any improvement made before the passing of this Act, and twenty years before the claim of such compensation shall have been made, except permanent buildings and reclamation of waste land.

*Extract from Section 5 of the Act of 1870.*

5. For the purposes of compensation under this Act in respect of improvements on a holding which is not proved to be subject either to the Ulster tenant-right custom or to such usage as aforesaid, or where the tenant does not seek compensation in respect of such custom or usage, all improvements on such holding shall, until the contrary is proved, be deemed to have been made by the tenant or his predecessors in title, except in the following cases where compensation is claimed in respect of improvements made before the passing of this Act:

\* \* \* \* \*

Where the tenant making the claim was tenant under a lease of the holding in reference to which the claim is made :

Where such improvements were made twenty years or upwards before the passing of this Act.

*Extract from Section 7 of the Act of 1881.*

7. A tenant on quitting the holding of which he is tenant shall not be deprived of his right to receive compensation for improvements under the Landlord and Tenant (Ireland) Act, 1870, by reason only of the determination by surrender or otherwise of the tenancy subsisting at the time when such improvements were made by such tenant or his predecessors in title, and the acceptance by him or them of a new tenancy.

Where, in tracing a title for the purpose of obtaining compensation for improvements, it appears that an outgoing tenant has surrendered his tenancy in order that some other person may be accepted by the landlord as tenant in his place, and such other person is so accepted as tenant, the outgoing tenant shall not be precluded from being deemed the predecessor in title of the incoming tenant by reason only of such surrender of tenancy by him.

The court, in adjudicating on a claim for compensation for improvements made before any such change of tenancy or of tenant's, shall take into consideration all the circumstances under which such change took place, and shall admit, reduce, or disallow altogether such claim as to the court may seem just.

*Extracts from Section 8.*

8. (1.) The tenant of any present tenancy to which this Act applies, or such tenant and the landlord jointly, or the landlord, after having demanded from such tenant an increase of rent which the tenant has declined to accept, or after the parties have otherwise failed to come to an agreement, may from time to time during the continuance of such tenancy apply to the court to fix the fair rent to be paid by such tenant to the landlord for the holding, and thereupon the court, after hearing the parties, and having regard to the interest of the landlord and tenant respectively, and considering all the circumstances of the case, holding, and district, may determine what is such fair rent.

(2.) The rent fixed by the court (in this Act referred to as the judicial rent) shall be deemed to be the rent payable by the tenant as from the period commencing at the rent day next succeeding the decision of the court.

(4.) Where an application is made to the court under this section in respect of any tenancy, the court may, if it think fit, disallow such application where the court is satisfied that on the holding in which such tenancy subsists the permanent improvements in respect of which, if made by the tenant or his predecessors in title,

the tenant would have been entitled to compensation under the provisions of the Landlord and Tenant (Ireland) Act, 1870, as amended by this Act, have been made by the landlord or his predecessors in title, and have been substantially maintained by the landlord and his predecessors in title, and not made or acquired by the tenant or his predecessors in title.

(9.) No rent shall be allowed or made payable in any proceedings under this Act in respect of improvements made by the tenant or his predecessors in title, and for which, in the opinion of the court, the tenant or his predecessors in title shall not have been paid or otherwise compensated by the landlord or his predecessors in title.

*Extract from Section 13.*

(2.) Where the sale of any tenancy is delayed by reason of any application being made to the court or for any other reasonable cause, the court may, on the application of the tenant, and on such terms and conditions as the court may direct, enlarge the time during which the tenant may exercise his power of sale, or in case of ejectment for nonpayment of rent redeem the tenancy.

*Extract from Section 21.*

In any case in which the court shall be satisfied that since the passing of the Landlord and Tenant (Ireland) Act, 1870, the acceptance by a tenant from year to year of a lease of his holding containing terms which, in the opinion of the court, were at the time of such acceptance unreasonable or unfair to the tenant, having regard to the provisions of the said Act, was procured by the landlord by threat of eviction or undue influence, the court may, upon the application of the tenant made within six months after the passing of this Act, declare such lease to be void as and from the date of the application or order, and upon such terms as to costs or otherwise as to the court shall seem just; and thereupon the tenant shall as and from such date be deemed to be the tenant of a present ordinary tenancy from year to year at the rent mentioned in such lease.

*Extract from Section 24.*

24. (1.) The Land Commission, out of moneys in their hands, may, if satisfied with the security, advance sums to tenants for the purpose of enabling them to purchase their holdings, as follows, that is to say,—

(a.) Where a sale of a holding is about to be made by a landlord to a tenant in consideration of the payment of a principal sum,

the Land Commission may advance to the tenant for the purposes of such purchase, any sum not exceeding three-fourths of the said principal sum.

*Extract from Section 32.*

32. The Land Commission may from time to time, with the concurrence of the Treasury, and on being satisfied that a sufficient number of people in any district desire to emigrate, enter into agreements with any person or persons having authority to contract on behalf of any state or colony or public body or public company with whose constitution and security the Land Commission may be satisfied, for the advance by the Commission by way of loan, out of the moneys in their hands, of such sums as the Commission may think it desirable to expend in assisting emigration especially of families and from the poorer and more thickly populated districts of Ireland.

*Extract from Section 53.*

53. Where it appears to the court, on the joint application of the landlord and tenant of any holding valued under the Acts relating to the valuation of rateable property in Ireland at a sum not exceeding thirty pounds a year—

That the tenant has paid the whole (or such sum as the landlord may be willing to accept as the equivalent of the whole) of the rent payable in respect of the year of the tenancy expiring on the gale day next before the passing of this Act, and that antecedent arrears are due, the Land Commission may make, in respect of such antecedent arrears, an advance of a sum not exceeding one year's rent of the holding and not exceeding half the antecedent arrears, and thereupon the court shall by order declare the holding to be charged with the repayment of the advance to the Land Commission, by a rentcharge payable half-yearly during the fifteen years from the date specified in the order, and calculated at the rate of eight pounds ten shillings a year for every hundred pounds of the advance.

*Extract from Section 60.*

60. Any application which a tenant is authorised by this Act to make to the court shall, if made to the court on the first occasion on which it sits after the passing of this Act, have the same operation as if it had been made on the day on which this Act comes into force; and any order made upon such application shall be of the same effect as if it had been made on the day on which this Act comes into force, unless the court otherwise directs; and the person by whom such application is made shall, if the court thinks just, be in the same position and have the same rights in respect of his tenancy as he would have been in and would have had if the application had been made on the day on which this Act comes into force.

the tenant would have been entitled to compensation under the provisions of the Landlord and Tenant (Ireland) Act, 1870, as amended by this Act, have been made by the landlord or his predecessors in title, and have been substantially maintained by the landlord and his predecessors in title, and not made or acquired by the tenant or his predecessors in title.

(9.) No rent shall be allowed or made payable in any proceedings under this Act in respect of improvements made by the tenant or his predecessors in title, and for which, in the opinion of the court, the tenant or his predecessors in title shall not have been paid or otherwise compensated by the landlord or his predecessors in title.

*Extract from Section 13.*

(2.) Where the sale of any tenancy is delayed by reason of any application being made to the court or for any other reasonable cause, the court may, on the application of the tenant, and on such terms and conditions as the court may direct, enlarge the time during which the tenant may exercise his power of sale, or in case of ejectment for nonpayment of rent redeem the tenancy.

*Extract from Section 21.*

In any case in which the court shall be satisfied that since the passing of the Landlord and Tenant (Ireland) Act, 1870, the acceptance by a tenant from year to year of a lease of his holding containing terms which, in the opinion of the court, were at the time of such acceptance unreasonable or unfair to the tenant, having regard to the provisions of the said Act, was procured by the landlord by threat of eviction or undue influence, the court may, upon the application of the tenant made within six months after the passing of this Act, declare such lease to be void as and from the date of the application or order, and upon such terms as to costs or otherwise as to the court shall seem just; and thereupon the tenant shall as and from such date be deemed to be the tenant of a present ordinary tenancy from year to year at the rent mentioned in such lease.

*Extract from Section 24.*

24. (1.) The Land Commission, out of moneys in their hands, may, if satisfied with the security, advance sums to tenants for the purpose of enabling them to purchase their holdings, as follows, that is to say,—

- (a.) Where a sale of a holding is about to be made by a landlord to a tenant in consideration of the payment of a principal sum,  
the Land Commission may advance to the tenant for the purposes of such purchase, any sum not exceeding three-fourths of the said principal sum.

*Extract from Section 32.*

32. The Land Commission may from time to time, with the concurrence of the Treasury, and on being satisfied that a sufficient number of people in any district desire to emigrate, enter into agreements with any person or persons having authority to contract on behalf of any state or colony or public body or public company with whose constitution and security the Land Commission may be satisfied, for the advance by the Commission by way of loan, out of the moneys in their hands, of such sums as the Commission may think it desirable to expend in assisting emigration especially of families and from the poorer and more thickly populated districts of Ireland.

*Extract from Section 59.*

59. Where it appears to the court, on the joint application of the landlord and tenant of any holding valued under the Acts relating to the valuation of rateable property in Ireland at a sum not exceeding thirty pounds a year—

That the tenant has paid the whole (or such sum as the landlord may be willing to accept as the equivalent of the whole) of the rent payable in respect of the year of the tenancy expiring on the gale day next before the passing of this Act, and that antecedent arrears are due, the Land Commission may make, in respect of such antecedent arrears, an advance of a sum not exceeding one year's rent of the holding and not exceeding half the antecedent arrears, and thereupon the court shall by order declare the holding to be charged with the repayment of the advance to the Land Commission, by a rentcharge payable half-yearly during the fifteen years from the date specified in the order, and calculated at the rate of eight pounds ten shillings a year for every hundred pounds of the advance.

*Extract from Section 60.*

60. Any application which a tenant is authorised by this Act to make to the court shall, if made to the court on the first occasion on which it sits after the passing of this Act, have the same operation as if it had been made on the day on which this Act comes into force; and any order made upon such application shall be of the same effect as if it had been made on the day on which this Act comes into force, unless the court otherwise directs; and the person by whom such application is made shall, if the court thinks just, be in the same position and have the same rights in respect of his tenancy as he would have been in and would have had if the application had been made on the day on which this Act comes into force.



## APPENDIX D.

After delivering judgment in a case heard at Downpatrick, Mr. Commissioner Baldwin said :—

I have thus aided in administering the Act according not only to its letter, but to the very spirit in which it was passed. If any landlord expects that we shall do less he shall be disappointed, and if any tenant expects more, he, too, shall be disappointed. It was to be expected that decisions like ours, which affect men's incomes, would be severely criticised. I have come in for my own share of criticism. I expected it. I have no right to complain of it. I like intelligent criticism. A howl was raised in consequence of an extraordinary dictum attributed to me. I have allowed that howl to spend itself. *I now say in the presence of my colleagues, that the principles on which we have proceeded in determining a fair rent were laid down before we put our feet on a sod of land, and before we commenced our labours in the Court House, Belfast, and that they have not been deviated from to a hair's breadth.* We have not stated those principles anywhere, but as it is pretty generally known that I entertain a high opinion of the capabilities of land, I felt it was necessary to indicate my views on one point. A Dublin broker and others have been good enough to interpret what I did say in terms which suit their own proclivities or interests. I said in this court house before, and I now say in it again, *that we estimate the capabilities of the land in the hands of tenants of fair average industry and skill.* Am I, as a member of this Court, to assist in assessing a fair rent here by the highest type of farming known to me? Am I to be influenced by my knowledge of the capabilities of land?

On the opening day of Sub-Commission No. 3, at Ballina, the Chairman, Mr. M'Carthy, made the following statement :—

A means of avoiding unnecessary delay would be the exclusion, so far as was practicable, of the evidence of mere *paid valuers*, however respectable. Of course, they could not absolutely exclude evidence which the suitors might consider important, but they must *candidly tell them beforehand that they did not care a straw for such evidence.* His colleagues were themselves agriculturists of large and varied experience. They were both independent of landlord and tenant. They were experts of the highest skill, and gentlemen of most sterling honour. They would go out on the lands and judge of them with their own eyes. Landlords and tenants would be safer in their hands than endeavouring to impress them with the opinion of valuers, however respectable, employed for the occasion, but whose conflicting estimates they all knew to be almost useless for practical purposes. Now, as to the points upon which they did require evidence, after proof or admission of service of the original

notice. They would desire to have the tenant himself put on the table, and evidence given of the truth of the statements made in the notice as to the acreage, as to the rent, and as to the Poor-law valuation. These preliminaries having been gone through, they required evidence on the following points, and the more quickly such evidence was elucidated, the more satisfactory and the more conducive to the real interests of those concerned. In conclusion, he wished to point out the matters upon which evidence would be distinctly required—1. *The truth of the statements contained in the original notice.* 2. *Whether the house is valued separately from the holding.* 3. *How long the present rent has been the rent of the holding.* 4. *Whether the rent has been changed within the past thirty-five or forty years, and, if so, when and how often.* 5. *The improvements made within a like period, if any, and who effected them; what did they cost, and what improvements were they.* 6. *The name of the nearest market town.* 7. *Is there any employment or manufacturing industry in the neighbourhood.* 8. *Is there any turbary, and, if so, is it charged in addition to the rent.* 9. *What is the average rent the landlord has received during the last ten years.* 10. *The average amount of poor rate and county cess, and how much road is included within the holding.*

## APPENDIX E.

## THE M'ATAVEY CASE.

*M'Atavey v. Bond.*

The tenant, who applied to have a fair rent fixed, is Patrick M'Atavey, Coolatru, Clontibret, and the landlord is Mr. Henry P. Cooto Bond, Burgh House, Hampstead, Middlesex.

Mr. James R. Ross, Solicitor, appeared for the tenant.

Mr. Smith (instructed by Mr. Wright) appeared for the landlord.

Mr. Vincent Smith was sworn and examined by Mr. Ross. He was a land valuator and had surveyed farms in the County Monaghan for many of the landlords. He visited the farm of M'Atavey in Coolatru, and made the map (produced) of the premises. The extent of this holding in English measure is 10 acres 2 rods and 4 perches, without including any of the country roads. He had examined it field by field.

The witness proceeded to say that he had dug the sub-soil. In No. 1 field he found mud to any extent and at the depth of 18 inches he found water. The land had been apparently a bog at one period. In No. 2 field he found red sand sub-soil, and in Nos. 3 and 4 fields he found mineral sub-soil. The holding was in the vicinity of the lead mines.

Now, what value do you, as a fair man, put upon the land? I value it at 10s. 2d. on the average per English acre. On a former occasion he had valued the farm for Mr. Wright, the agent of the property, but that was not a fair valuation.

Were you told by the office to put a valuation upon it?

Mr. Smith objected. Mr. Ross had no right to make such an insinuation regarding the office.

Mr. Wright denied that any such instructions had ever been given.

Witness, on further examination, said a portion of the land was subject to flooding. He valued the farm exactly as he found it last Thursday.

Mr. Commissioner Garland—Do you value it at that considering that the tenant-right is held by the present tenant?

Witness—I value it at 10s. 2d. under any circumstances.

Cross-examined by Mr. Smith—I did not take the question of tenant-right into consideration.

Assuming that the landlord had it in his possession, and was going to set it without a fine, would you say 10s. 2d. was the fair value of the farm? I would.

How much is 10s. 2d. per English acre an Irish acre? It is 16s. 5d.

Did you put a value upon the farm in 1876? I did according to the instructions I got.

Is that your handwriting (document handed in)? It is.

‘Valuation of part of the lands of Coolattra, number on map, Arthur M’Atavey, contains as follows in Irish plantation measure —’ Did you strike an average valuation for the entire of the holding? I did by orders I received.

Was that 28s. 5½d. per Irish acre? I suppose so.

You put your name to the paper? By orders.

By whose orders did you value it now at 10s. 2d.?

Mr. Ross—If the tenants had in the past got so much fair play from the landlords as we are willing to give you to-day, there would be no necessity for the Land Act.

Witness—The valuation of 10s. 2d. was my own.

Were you paid for it? I suppose I got my fees.

Was the valuation of 1876 then a fraud? I acted according to my instructions.

Who instructed you in 1876? The office.

The office is a nonentity—give the name? I will give no names.

Come, sir, your character is at stake; here you have condemned yourself by stating that you put your hand to a paper that was false. Who instructed you? I don’t mind exactly.

Will you swear there was anyone? There was; I don’t mind whom.

You did not make it as a genuine valuation? I did not.

Very well, you made it as a fraud? It was a matter of form to suit the purposes of the office.

Did you swear to that valuation in 1875 in this very court? No, I never swore to it.

Did you find the holding larger on Thursday last than it was in 1876? Did you survey this farm at all last Thursday? Oh! that’s all d——d nonsense (laughter).

Mr. Commissioner Kane—That language cannot be tolerated.

Witness—I beg your pardon ; it slipped out from me. When he talks that way it's absurd (laughter).

Mr. Smith—Who was in charge of the office in '76 ? I don't recollect.

Whose office was it at all ? Mr. Joe Wright's office.

Do you know the object of the survey in '76 ? I never inquired.

Do you know that the rent of this holding is 16s. 7d. per acre ? No.

If you heard that the rent of the holding was 16s. 7d. and your valuation is 16s. 6d., would you think that the tenant was entitled to come in here ? The tenant might have improvements.

Did M'Atavey tell you that he had got any land within the last eighteen months additional to what he had before ? He pointed me out a garden he got, but he did not tell me when. I never saw Griffith's valuation of the holding.

Did M'Atavey tell you he only got part of the field No. 1 within the past two years ? He did not.

Now, tell me is the bog you describe there as big as the bog you are now standing in (laughter) ?—was there any bog on the land in 1876 ? I don't mind.

You have been heralded here as the most respectable valuator in the North of Ireland —

Mr. Ross—I did not say so.

Mr. Smith—Well, there was a string of landlords on whose estate you had made valuations. Were all your valuations of those farms made in the same way as you valued this farm in 1876 ? No, they were all genuine (laughter).

Just one other question—Do you imagine there is a soul in this court-house who believes one word you have sworn ? No answer.

Mr. Commissioner Kane—Did you make the valuation yourself, or were you told the amount of valuation to make ? I drew out the document myself.

Mr. Commissioner Bailey—*You were told the amount to put down ?* Yes.

Patrick M'Atavey examined by Mr. Ross, said he was the claimant in this case.

And your father was Edward M'Atavey.

Witness—So I was informed (laughter).

Did you sign this agreement ? I signed it against my will.

Mr. Smith objected to this question, but the witness added—I signed this agreement after notice had been served upon me and the decree had been got. This first receipt for rent was dated the 24th December, 1877, to the representatives of Edward M'Atavey, 7l. 16s. 2d. There was an abatement of rent of 17s. 9d. allowed to him on a subsequent receipt. A portion of a garden, the rent of which was included in the agreement, was, before he got it, rented at 3s. 6d. When he took it it was raised to 5s. Witness had been

in America, and until lately had been in England, from where he sent money to his wife for the purpose of paying the expenses of the farm. Portion of the bog was reclaimed, and some portion of it was not yet reclaimed. Some of it would give a very poor crop.

What rent could you afford to pay for this farm, and live upon it as a respectable citizen? I should say about half the rent.

Could you give the half of it and live? Not as I could live abroad in any other country—that is, and live upon nothing else. There were two holes in the field which had to be filled up, and there are rocks which I can't put soil upon, for I have not a horse or cart.

Cross-examined by Mr. Smith—Why could you not live on the farm without going away to America or England? My wife was there. She labours it, and I sent her money to labour it. The agents there were the most tyrannical agents that ever were in that part of the country. He, the witness, sent the particulars of this case to Mr. Leek, the member for South Lancashire, and he wrote to the Manchester papers about it.

Do you know what rent your grandfather, or father, paid for it? No.

On what authority did your solicitor state that the rent of this holding was raised within the last two or three years? They told me that the part that was added was never rented. They took another piece from me, and they did not reduce the rent.

Were you not served with a notice at the time the writ of ejectment was served that the object was to lead to the recasting of the fencing with your uncle? No. I do not remember. I got letters from time to time. I firmly believe that if I had not signed that agreement I would have been turned out of the farm.

Witness, in reply to further questions, stated that last year he had five pecks of flax in the crop. There was a crop of corn in the field. It contained 1 acre 0 rood 38 poles. He sowed 24 stone of corn at 10½*d.* per stone. 4*l.* 3*s.* 5½*d.* was the cost of the crop, and including the expense of sale, &c., 4*l.* 13*s.* 10½*d.*, which did not include the rent, or cess, or rates. He got 5*l.* 1*s.* 3*d.* for the corn.

Peter Mulligan—4*l.* or 5*l.* would be a fair rent for the farm.

Mr. Commissioner Kane—Will you be able to prove, Mr. Ross, that the tenant-right exists in this case?

Mr. Ross—Yes, in the whole of that district.

Patrick McNally deposed that he did not believe he could get a living out of the farm and pay more than 5*l.* or 6*l.*

Henry Moran deposed, in answer to the Sub-Commissioner, that he could not say what the price of the tenant-right in that district was.

Mr. Smith said 10*l.* per acre was the price fixed by the office.

This concluded the tenant's case.

Mr. Joseph Wright, solicitor, examined by Mr. Smith, said

that he was agent of the estate since 1874, and at the time the survey was made by Mr. Smith. There was not one single particle of truth in the statement made by Mr. Smith about the valuation. He believed that Mr. Smith was told to go out and make a fair valuation, but witness believed he had not himself given him any instructions one way or other. There had been a dispute about the boundaries, and the valuator was sent to regulate it. A notice to quit had been served and ejectment proceedings taken, but afterwards an arrangement was made between the present tenant and his uncle. Neither directly nor indirectly was there any coercion used with reference to the signing of the agreement. Unless provision was made the whole of the county cess would have to be paid by the landlord.

Mr. Ross—This is an agreement by the tenant to pay the whole of it.

Mr. Wright added that he did not know anything about the holding.

Mr. Ross—Don't you know that the signing of the agreement was an infringement of the Ulster tenant-right? I do not know.

Don't you know that it prevents free sale? I do not.

After the passing of the Act of 1870, were there a number of these agreements proposed? No, there were not. The landlord is an absentee.

Mr. Foster Dunwoody deposed that he was in Mr. Wright's office. The claimant's holding was capable of producing good crops. When he went into possession the farm was in good condition. It was totally untrue that Smith was directed as to the value to be put on farms. As a matter of fact, Smith himself said that the rent of the farms was too low. Witness had at one time pressed the claimant to take 100% from the old man, his uncle, but he refused to do so.

Michael Langhran deposed that he thought M'Atavey's land was better than the land he held himself, and he would not take 10% an acre for his farm.

This closed the evidence for the respondent.

Mr. Ross—I can give evidence with reference to the townland of Coolartra, in which my client's holding is, and which belongs to the same landlord generally. I will show that in 1861 the rent was raised when the mining was in full operation.

Mr. Smith—This has no bearing upon the case of Patrick M'Atavey.

Mr. Commissioner Kane—We cannot receive it, Mr. Ross. If you can prove the raising of the rents on the whole of the townland, that, of course, affects the holding we are dealing with; but you cannot prove it by proving the raising of the rent on any particular holding.

Mr. Ross—The entire townland of Coolartra belongs to Coote Bond. If I am in a position to prove, as I am, that every tenant in the townland had his rent raised in or about the year 1860 or '61,

when the mines were in full operation, surely it would be a strong argument for me that this rent was raised also.

Mr. Commissioner Kane—If you can prove that the rent was raised in every case it would, but you cannot use the case of any particular holding for the purpose.

Mr. Ross—I have men here who were tenants so far back as 1846.

Mr. Commissioner Kane—The best thing would be for Mr. Ross to bring forward his evidence, and then we can decide.

Patrick Harris was then examined, Mr. Smith entering an objection to the evidence being received. Harris stated that he was a tenant on the townland of Coolattra for the past forty or fifty years. There was this general rise from 9*l.* to 11*l.*

Can you say that the rents of all the tenants were raised? I can say that we were all processed at a certain time.

Witness—It was afterwards raised from 11*l.* to 13*l.* 10*s.* 7*d.* We all got ejectment processes. We were not willing to pay this second rise, and we got these processes for one year's rent. The old rent would not be taken, and there came in an agent and he processed every man, which cost us 13*s.* 4*d.* We then were glad to pay it.

Cross-examined by Mr. Smith—Was there any alteration in M'Atavey's rent? I know only about my own.

What is your present rent? 13*l.* 10*s.* 3½*d.*

Mr. Smith (to witness)—Did you not get an additional piece of ground that added on the rent? Yes, I got a piece.

Mr. Smith—There has been no proof of raising M'Atavey's rent except as an equivalent for a piece of ground, and the same applies in this man's case.

John M'Quade examined by Mr. Ross, stated that he was a tenant on the townland of Coolattra. His father was a tenant before him. His rent had been raised. In 1801 his rent was 9*l.*, in 1864 it was 9*l.* 8*s.* 2*d.*, and in 1881 it was 10*l.* 7*s.* 6*d.*

Mr. Smith said the evidence with regard to a general rise over the estate was absurd.

Mr. Commissioner Kane said it was an important fact in an Ulster tenant-right district to know the value of the tenant-right not only in this district but in others.

Mr. Smith—This man was offered 10*l.* an acre by his landlord, and he refused.

Mr. Commissioner Garland—Was that Irish acres?

Mr. Smith—Irish acres.

Witness (to Mr. Ross)—I have seven acres at 30*s.* an acre, Irish.

What is the value of the tenant-right in your district? 10*l.* an acre; that is the office rule.

Mr. Commissioner Garland—Suppose there were no office rule restricting the price? It is not worth 10*l.* an acre. It is not worth it, for it is rack-rent, and we must leave the place or pay the rent. There are farms to be sold, but no one can buy them because they could not hold their own.

What did farms sell at within the last three years? 10*l.* and under it. 10*l.* is the general purchase.

Francis Boyd, examined by Mr. Ross—I live in the neighbouring townland of Tartaragh—

Mr. Smith—I object to this, but you can go on now as fast as the Commissioners allow you.

Mr. Ross—How close are you to M'Atavey's holding? There are two townlands between us. I bought and sold land myself at 20*l.* an acre. I gave 20*l.* an acre myself, and the rent was 1*l.* an acre.

Thomas Harrison, examined by Mr. Ross, said he lived in Coolarra. He had bought land from Mr. Bond, who was a good landlord, none to compare with him. 11*l.* an acre was the then price—

Mr. Ross—You may go down.

Mr. Smith—Praising the landlord does not suit Mr. Ross. About how much land have you? About 4½ acres.

What rent are you subject to? 6*l.* 1*l.* 8*d.*, but it is half too much (laughter).

Mr. Foster Dunwoody (recalled) said there had been no increase in the rental since 1872. The slight addition which had been made to M'Atavey's holding had been taken off another tenant, arising as it did from a change in the boundaries. He did not know anything about the rents before 1872.

Mr. Ross—Will you swear there was not a nominal sum charged in the office and a larger sum demanded outside in the gateway? Well, I have heard that something of the kind has taken place, but I know nothing of it. There has been a depression in the sale of tenants' interests, but just now there seems to be a revival. Last year was not a favourable year for selling, but I don't think M'Atavey would take 10*l.* an acre for his holding. I tried to get him to take 100*l.* for his interest in the farm when his uncle wanted it, but he said he would not take less than 250*l.* for it.

Mr. Commissioner Kane, in giving the decision of the Court, said that he had considered the whole facts of the case. The evidences had not been satisfactory. No doubt there were difficulties on both sides in consequence of the absence from the country of the tenant till quite recently, and, on the other hand, in consequence of the change in the agents of the estate in the year 1870, and the impossibility of finding any records which dealt with it, and showed the condition and nature of the estate before that year. They had, however, all visited the holding, and the facts of the case that were proved or admitted were as follow :—This farm originally belonged to the tenant's father, who died. The rent was 7*l.* 16*s.* 2*d.* Previous to that we do not know of anything. In the year 1875 this young man came back from America and established his legal right. A difference arose between the uncle and the young man. The difficulties were ended by a notice to quit being served and an ejectment decree being got, apparently against both parties, and in there being some slight alteration in the area of the farm, and the



rent being raised to 8*l.* 16*s.* 2*d.*, and professedly part of that was due to the addition of a small garden which the present tenant purchased from an old woman named Rooney, which was previously rented at 3*s.* 6*d.*, and which was increased to 5*s.* There was also three-quarters of an Irish acre of reclaimed bog. This might in some measure at all events account for that increase, but probably that would not entirely account for the increase of 16*s.* 6*d.* Under these circumstances the case now came before them. They had very carefully examined the holding to see what the fair rent of the farm should be, and the conclusion they had come to, to the best of their judgment, was that the fair rent for this holding would be the sum of 6*l.* 6*s.*, a year, and they also said, of course, that the present law should apply and the landlord should pay the half of the county cess. Of course, if their decision was unsatisfactory, it was more desirable that an appeal should be taken. It was probable, this being the first case decided under the Act which had been passed. That put upon their decision a very great responsibility. They were not guided by previous rulings or decisions, and only decided according to their own judgment, unassisted by any rules laid down by judicial authorities. There was one question that he would wish to refer to. It was with reference to the period at which this rent, so fixed by them, should apply. It was peculiarly a question which could only arise that day, or on another gale day.

To Mr. Ross—Was any application made to the Court under the 60th section at this present sitting of the Commission, and if so, had such application been recorded?

Mr. Ross—It had, with three or four others, been entered in Dublin. The applications were recorded to have a fair rent fixed.

Mr. Commissioner Kane—That removed all difficulties. That being so, under the 60th section of the Act our decision is the same as if made before, and the period would run from to-day.

Mr. Ross said he had now to apply to the Court for costs.

Mr. Commissioner Kane—Was an application made to the landlord for a reduction in the rent before the service of the originating notice?

Mr. Ross—There was not.

Mr. Commissioner Kane—*Under these circumstances we have come to the conclusion that where no application had been made to the landlord beyond the service of the originating notice, each party should pay his own costs.* It was, he thought, only due to the landlord that he should be given a chance of reducing the rent out of court.

The result of the judgment is stated to be that the rent is reduced practically 1*l.* 2*s.* below Griffith's valuation, the size of the farm being two acres more, according to the valuation of Vincent Smith, the tenant's own valuator, than is given in the Poor-law valuation of the holding. It appears that at one time three roods were added to one farm, and seven perches deducted. Some discrepancy, however, has crept in, and, based on Smith's survey, the rent is substantially 2*s.* below Griffith's valuation.

## APPENDIX F.

## THE CRAWFORD CASES.

The Sub-Commissioners—Mr. Edward Greer, who presided, Professor Thomas Baldwin, and Mr. James M. Ross.

*Isabella Sims Campbell, tenant; Rev. Archibald Crawford, landlord.*

This was an application by a widow named Isabella Sims Campbell to fix a fair rent. She holds 5a. 3r. 35p. near the village of Carnmoney, about seven miles from Belfast. She alleged that at the expiration of the lease under which her husband held in 1866 the rent was increased from 5l. 15s. to 9l. 4s. 4d. The poor-law valuation is 6l.

Isabella Sims Campbell, an elderly woman, who gave her evidence with much shrewdness, was examined. She stated that on her husband's death, about twenty years ago, she was left in possession of the farm. She had four children—two sons and two daughters—all grown up, and they lived with her, and but for the assistance she received from them she could not have lived on the farm. It contained 5a. 3r. 35p. The rent before her husband's death was 5l. 15s., and the present rent was 9l. 4s. 4d.

Mr. M'Mordie, solicitor for the tenant—The rent was raised in '66? Yes. In all my time there I never heard of the landlord spending a penny on the farm.

When you were noticed in '66 to pay the increased rent at the expiration of your lease, why did you agree to pay it? I was glad to get the farm, because it was still a residence for me. I would rather pay it than flit—I liked to live in the old den (laughter). I think Mr. M'Auliffe's name was at the foot of the notice about the new rent.

What would you consider a fair rent for the farm? I think 10s. or 12s. a 'wee acre' would be sufficient.

Mr. Overend, counsel for the landlord—Isn't it very good land? It was very poor. When the boys began to grow up we made it good.

Isn't the house good? We made it good. I saw the whole of the children rising at night unable to get a dry place to lie in. If it was not for the industry of the boys I would not have potatoes and milk.

In reply to Professor Baldwin,

Mr. Overend said the poor-law valuation was 6l.

James M'Crum, a tenant on the same property, and also having a claim against the landlord, stated that 12s. per statute acre would be a fair rent for Mrs. Campbell's land. That would be about 1l. per Irish acre. The house did not belong to the landlord.

It would be worth 2s. per week more. If it had not been for her children Mrs. Campbell could not have lived on the farm.

Samuel Lyle, another tenant on the property, also stated that 12s. per acre would be a fair, full rent. He never knew of the landlord spending a penny on the farm.

The witness also added that the farm was close to a bleaching green.

Moses Lylo, another tenant, also said that the land was worth about 12s. an acre.

Mr. Thomas A. Archibald, P.L.G., Belfast, said he had examined the land, and he considered it worth 19s. an acre, independent of the dwelling. It was fair land, with a light subsoil. The only crops that would grow on it with any chance of success were oats and potatoes.

Mrs. Campbell, recalled, stated she paid all the county cess.

This concluded the tenant's case.

A copy of the lease granted to the tenants on the estate in '42, and which was similar in all the cases, was handed in, and also a copy of the notice to quit served in '66, preparatory to the raising of the rent.

Mr. George M'Auliffe, J.P., stated that he had been agent for the estate for about thirty years. He always understood he was appointed by Mrs. Crawford's trustees. His appointment was made after the execution of the leases of '42, and he received the rents until the expiration of the leases in November, '63. Notices to quit were served, he believed, on all the tenants, dated April '63, and in response to the notice he had interviews with the tenants in his office. He intimated to them that an increase of rent was required, and that the notices to quit had been served with that object. He had the lands valued at the time. The valuers were Dr. Ritchie and the late Mr. Brassington, of the firm of Brassington and Gale. The increased rents were in every case arrived at by the valuers. He informed the tenants afterwards in a personal interview of the increased rent, and they all agreed to it. No further action was taken on the notices to quit, and there was no other raising of the rent on the estate during witness's time. Mrs. Crawford was in England, and he received a letter from her the day before yesterday. Rev. Mr. Crawford was Archdeacon of Castlemaine (in Australia). Witness remitted the rents to Mrs. Crawford, but he did not know who the trustees were. He thought the rents on the estate were moderate. The house on the holding in the present case belonged to the landlord. The land was situated near a mill and bleach-ground, and since the raising of the rent, in 1866, the portion of Belfast close to the holding had very much extended, and the value of the land had increased.

Cross-examined by Mr. M'Mordie—*The ground upon which he claimed the improvements for the landlord was the covenant in the lease. He was not aware that the landlord had spent anything on*

*the holdings.* He did not believe that the tenant in this case built the residence, nor did he believe the improvements were made by the tenant. He believed he raised the rents on the intimation of Mr. Andrew Crawford, brother of the Rev. Archibald Crawford. *He saw the latter about twenty-seven or twenty-eight years ago.* He told the valuers to make a fair valuation of the holding independent of the landlord or tenant. *The tenants would have been ejected if they had not agreed to the increased rent.*

Mr. M'Mordie submitted that the tenants' improvements were not to be taken into consideration in fixing the rent.

Mr. Overend argued contra, and contended that the improvements belonged to the landlord, and that the lease was conclusive on the point, as it contained a covenant that the improvements were to be maintained and yielded up at the expiration of the lease.

Mr. M'Mordie observed that if the Court decided in favour of such an assumption, they might bid good-bye to the Land Act of 1881.

The Sub-Commissioners retired for consultation, and on returning,

*The Chairman announced that they were of opinion that the tenant was entitled to the benefit of the improvements unless Mr. Overend could give them some more definite evidence that the improvements were made either by the landlord or by his predecessor in title (applause).*

Mr. Overend said he was not in a position to offer any evidence anterior to 1842, when the lease was made. As this decision would relate to all the subsequent cases, the interest in the holdings would be reduced by one-half, and as the present decision must result in a re-hearing of the case before the Commissioners, he would suggest that the Court should make two valuations—one giving the tenant the benefit of the improvements, and the other giving it to the landlord—and reserve the question for the Commissioners. This would avoid the necessity of a full re-hearing.

Mr. M'Mordie said he was prepared to meet the landlord in any court. He was confident that the Commissioners would uphold the present decision, for if they upset it it would be equivalent to telling the country that the Land Act was a sham (applause).

The Court declined to reserve the question, and evidence having been given that the quantity of land on the holding under roads was 1r. 37p., the Court reserved their decision.

The evidence of the valuers was then taken as to all the holdings on this estate, as to which applications had been made.

Thomas Houston deposed that he visited the holdings in company with Mr. Archibald, P.L.G., and valued them. They considered the fair rent for Mrs. M'Alister's holding would be 14s. 0d. per statute acre. They believed that to be the full competition value of the combined interests of the landlord and the tenant. They then deducted 15l. an acre, which they considered to be the fair value of the tenant-right. He had stated on the previous day

that, putting 14s. 6d. and 15s. together, they brought the rent up to 29s. 6d. He now wished to add that he did not think a wise man would go into the farm at that. He would take 2s. 6d. off each figure to get at the wise man's rent. In Boll's case they estimated the fair rent at 16s., and the tenant-right at 15s., but that he would reduce to 26s. to get at the fair rent.

Professor Baldwin—Surely you must eliminate the question of skill in farming in your estimate, and take what may be called the fair average tenant?

Yes, that is what I did.

And you deduct from the tenant-right value 2s. 6d. from the landlord, and 2s. 6d. from the tenant? Yes, because we say that 15l. is the full competition value of the tenant-right. I believe people will give too much for land.

In reply to Mr. Overend the witness stated that the tenant's improvements formed the principal element in estimating the tenant-right, but the general interest in the holding *and its situation* are also elements to be considered. He would not regard the natural quality of the soil without the tenant's improvements as an element. He had not time to inquire minutely into the tenant-right interest in each case.

In reply to Mr. M'Mordie, the witness stated that he believed the tenant should have a share in the increase of value which arose from natural and other causes over which neither the landlord nor the tenant had complete control.

Mr. Overend—And share the losses! He has already to do that.

Professor Baldwin said it was of the greatest importance that there should be the fullest investigation into the mode by which the valuers arrived at their conclusions. It would save time and afford more satisfaction to the public, he believed, if evidence of a thoroughly reliable character were placed before the Court.

Mr. M'Mordie said it was absolutely impossible to obtain in Ulster the sort of evidence which the Court seemed to require in these cases. He was thoroughly familiar with the operation of the Ulster tenant-right, and he would say that if the Court were to expect or hope to procure persons residing in the districts, familiar with the dealings between landlord and tenant and the transfer of land, who could give evidence of that close analytical character, they might as well stop the procedure under the Act. All they could do was to give the evidence of practical men acquainted with the land and the circumstances of the parties who had no interest themselves in the cases before the Court. If the Court were not guided by the honest judgment of such witnesses as they could get, he would say that they appeared to him to have been very largely losing their time.

The Chairman—I am afraid we are losing our time now.

Mr. M'Mordie said this was a very serious matter, and there should be a clear understanding about it.

Professor Baldwin said there was not a particle of science in the evidence at all, and the object of his remarks was merely to elicit reliable testimony from a practical witness.

Mr. M'Mordie said he had already drawn the attention of the Commissioners to the reliability of the evidence.

Professor Baldwin disclaimed any intention of reflecting on the evidence as given, which he regarded as most valuable. *But he could not forget that the witness had stated that he had not sufficient time to go fully into the various cases.*

Mr. M'Mordie observed that the Land Commission above was itself responsible for the hurried procedure. He had not spared himself in preparing the cases.

Mr. Overend said where it was sought to transfer so much property from the landlords to the tenants he must ask the Court to insist upon evidence reasonable, correct, and fair.

Mr. M'Mordie said it was rather amusing to hear that from Mr. Overend, seeing that he had not given one tittle of evidence to assist the Court in this matter.

Mr. Houston was then examined relative to the value of the other farms. His evidence was similar in character with that given by him relative to M'Alister's holding.

Mr. Archibald, P.L.G., gave corroborative evidence.

Mr. John Jordan, of Dromore, stated that he had been for many years valuator for Lord Trevor, in the County Down. He had visited the holdings on the Archibald property, and he estimated 14s. an acre as a fair rent. The holdings varied from 10s. to 18s. 6d.

Professor Baldwin expressed his dissatisfaction with regard to his calculations as to the cost of labour, &c.

Mr. M'Mordie said it was not in their power to produce better evidence.

Mr. Overend put in evidence the leases and the deed of settlement of the property, dated August 29, 1878, which divided the property in certain shares among the children of Mrs. Crawford, subject to her own life estate. He submitted that the valuation of Messrs. Ritchie and Brassington was the fair value of the land, and that the evidence tendered to the Commissioners was incomplete and unreliable.

Mr. M'Auliffe, the agent, was recalled, and stated, in answer to Professor Baldwin, that he had had experience as a farmer. The standard by which he came to the conclusion that the rents were fair was by comparing them with the other rents in the locality. He had given his evidence as a land agent, and without knowing anything as to how the tenant worked the land.

To Mr. M'Mordie—The buildings and improvements were included in that valuation.

Mr. Commissioner Greer—In these fifteen cases in which the Rev. Archibald Crawford is the landlord, we have had the tenant coming forward in each case to support his application by his own

testimony, and in addition we have had the evidence of two intelligent farmers from a neighbouring estate, who both examined the several holdings, and who have given to the Court the benefit of their opinion and practical experience as successful farmers, and they say that the rent which should be fixed as a fair rent in such case would be from 12s. to 19s. the statute acre, according to their opinion of the holding. We have also had the evidence of an experienced valuator, Mr. Jordan, who puts the rent at 14s. an acre. We regret that we have had no evidence from the other side, save the testimony of the landlord; and we fully recognise the difficulties Mr. Overend has had to contend with in conducting his case, owing to the absence abroad of the reverend gentleman whom he represents. *It would appear that the Rev. Archibald Crawford emigrated to Australia some twenty-nine years ago, leaving his agent, Mr. Henry M'Auliffe, in charge of this property, and he has not since returned.* Previous to the departure of Mr. Crawford, and in the year 1842, he executed to all the present tenants or their predecessors leases of their holdings for a term of twenty-one years, and in some few cases a life was added. The rents reserved by those leases may be generally stated to have been equal to 20s. per statute acre. They all expired in the year 1861, and in 1866 Mr. M'Auliffe, acting upon the instructions of Mr. William Crawford, brother of the landlord, proceeded to have a re-valuation of the estate. Mr. M'Auliffe selected as valuers for the landlord the late Charles Brassington and Dr. William Ritchie, of Belfast, and he instructed them to visit the lands and estimate the then letting value of each holding. *It does not appear that any valuator represented the tenants upon that occasion.* Mr. M'Auliffe, having procured the valuation, proceeded to act upon it by having, as he has informed us, laid notices to quit served upon the tenants—all of them on the same day—and afterwards he had an interview with the tenants, when he informed each of them that the landlord required their rents increased, and, and after some objection on the part of the tenants, the rents of all were increased from 20s. per statute acre to about 30s. per statute acre. Mr. Brassington is since dead, so we could not have the benefit of his evidence to explain to us the data upon which, in the year 1866, he based his conclusions that the rent was then too low, and should be increased. Dr. Ritchie, however, is still alive, and residing in Belfast, and we should have been glad to have heard from him the explanation which we could not have from Mr. Brassington. Mr. M'Auliffe told us there was some difference between the valuation of the two gentlemen, but it was trifling. If any report of the valuers was in existence we should like to have seen it. However, the cases have been closed, and we are now called upon to decide upon the data, such as it is, that has been afforded to us. To assist us in arriving at a decision we have personally visited and inspected the several holdings. We have examined the fences, drains, and all the surrounding circumstances connected with each, and we have, after much consideration,

determined that the following judicial rents shall be the rents to be paid in each case for the next fifteen years :—

Tenant	Valuation	Old Rent	Present Rent	New Judicial Rent for 15 years
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Isabella S. Campbell	6 0 0	5 15 0	9 4 4	6 8 9
Joseph Bell	43 15 0	37 0 0	50 0 0	36 12 4
Robert Herron	23 0 0	24 5 0	38 9 6	26 13 11
Margaret McAllister	15 15 6	13 15 0	22 17 8	16 11 2
J. McCrum	41 6 0	47 0 0	60 0 0	48 0 5
John Thompson	20 0 0	23 0 0	32 15 4	24 16 5
Thomas Lyle	53 5 0	50 10 0	65 6 4	50 2 11
George Kidd	11 15 0	10 10 0	17 17 0	12 5 6
Samuel Lyle	42 10 0	47 0 0	67 3 8	52 16 11
Alex. Porter	19 0 0	20 5 0	29 14 0	20 16 10
Joseph Williamson	44 0 0	38 10 0	71 5 0	48 3 0
Robert Kennedy	11 10 0	10 10 0	16 16 8	11 18 10
Eliza Campbell	87 15 0	75 15 0	122 18 10	89 17 8
Wm. Williamson	5 0 0	4 0 0	4 2 6	1 2 6
John Lindsay	19 10 0	26 5 0	32 6 6	23 4 6

Professor Baldwin said:—In concurring in the judgment which has been delivered, there are several reasons why I should say a few words. This judgment will be read with the deepest interest, and scanned with care. We have simply administered the Act of Parliament to the best of our judgment. *We have reduced the rents, and we have done so because it has been proved that the improvements have been made by the tenants.* The agent admitted that not one shilling has been laid out on the land by the landlord, who has been an absentee for twenty-seven years. The agent did contend that the improvements—buildings, roads, fences, drains, and reclamations—made between 1842 and 1863 by the tenants, became the property of the landlord under the lease executed in 1842. On this point we have given our judgment already. Improvements have been made since 1863. The status of tenants has undergone a vast change since 1842. Mr. Overend frankly admitted that the estate is subject to the Ulster custom of tenant-right. In 1866 a rise of rent was put on which seriously affected the tenant-right. Another such increase would kill it. *This Act tells us in words which cannot be misunderstood that we must not allow any rent in respect of improvements made by the tenant or his predecessors in title unless he shall have been compensated or recouped for them.* The Act secures to the tenants the property they have created in the soil, and deprives the landlord of the power of appropriating it. *In determining the rent we have not set up any standard of what the farming ought to be.* We have taken the estate, tenants and all, as we find them. *We have carefully considered the capabilities of the land in*



*the hands of the present tenants. To others the land may be more valuable if those tenants were removed. With any speculation on that point we have nothing to do.* There is not in the management of this estate a single feature of what is called an English-managed estate. It has not been managed in the liberal and fostering spirit so common on Irish estates. Several of the tenants have effected a great many improvements, which gave them in equity, and now in law, a considerable interest in their holdings. *On the other hand, many of the farms are in a neglected, and a few in a shameful state.* This Act and our decision to-day tell them that every bit of permanent improvement they effect in future shall be protected by the law. It is hoped this will give a new direction to their thoughts and industry, and thus speedily improve their own condition, increase the prosperity of the district, and promote the well-being of the State (applause).

The Sub-Commissioners ordered that the landlord should pay half the county cess.

Mr. M'Mordie, solicitor, asked that all the tenants should get their costs with the exception of Wm. Williamson.

The Chairman said they had determined not to give costs in the present case.

Mr. M'Mordie hoped the Commissioners would not make up their minds until they had heard him.

The Chairman said they had made up their minds on the point, having considered it most carefully.

Mr. M'Mordie hoped they would reconsider it. He was not asking for any restitution to be made to the tenants, but merely that they should get the common rights of ordinary suitors who were successful.

The Chairman said he thought it would be very hard to visit the landlord with costs, as he probably would not hear of the present proceedings for a couple of months.

Mr. M'Mordie hoped the Commissioners would give him an opportunity of arguing this point before them at Downpatrick next week.

The Chairman said they had decided the matter on their own discretion, having given it full and careful consideration, and he thought it was useless to press the point further. He intimated that the tenants would get the benefit of the reduction from November 1.

The total reduction of the rent-roll of the Crawford estate is 168*l.* 2*s.* 10*d.* per annum, which in the fifteen years for which the rent has been fixed will amount to 1,522 2*s.* 6*d.*, to say nothing of compound interest.

## APPENDIX G.

## THE TENNENT CASES.

Before Sub-Commission No. 2, sitting at Belfast.

*Robert Cooper, tenant; Robert Tennent, landlord.*

This was an application to fix a fair rent. The tenant holds 19a. 2r. 5p. at Dundonald, County Down. The old rent was 28*l.*, which was subsequently reduced to 18*l.*, and raised to 30*l.* in 1875, in consequence, as the tenant alleged, of his improvements. He stated that the land was hilly, and he was unable to make a living out of it. The only flesh meat he could afford to eat was a bit of American bacon occasionally. When he became tenant the land was in poverty and the houses dilapidated.

*Hill Magee, tenant; same landlord.*

This was a similar application. The tenant holds 18a. 1r. 9p. at Hollywood, County Down. He stated that he succeeded his father in the farm five years ago, and that the rent was then raised from 27*l.* 10*s.* to 32*l.* His three sisters lived with him, and none of them tasted butcher's meat from year's end to year's end.

*William Larmour, tenant; same landlord.*

The tenant in this case made a similar application. He holds 18a. 1r. 9p. The old rent was 20*l.*, and the present rent 27*l.*; Poor-law valuation, 25*l.* 10*s.* He stated that all the improvements were made by him and his predecessors in title. He was unable to live on the land at the present rent.

On cross-examination by Mr. Overend, the witness admitted his father got some compensation for the erection of the buildings.

*Orr Shepherd, tenant; same landlord.*

The tenant in this case holds 15a. 1r. 39p., and the application was similar to the previous ones. The rent is 27*l.*, and the Poor-law valuation 18*l.* 10*s.* The applicant stated that he had been ten years in possession, and that he was a spirit-grower and provision dealer. He paid most of the rents and farm expenses out of the shop, and but for it he could not live on the farm at all. His wife was in possession when he married her.

To Professor Baldwin—I employ a man and a boy constantly on the farm.

In reply to Mr. Overend, the witness stated that he had another farm of four acres, on which the two labourers also worked.

John Barry, a retired farmer and land valuator and auctioneer, stated that Cooper's and Larmour's land was very steep and inaccessible for labour. He considered 10*s.* an acre would be a fair rent for both farms.

Cross-examined by Mr. Overend—I never take the tenant-right into account at all, I find it so fluctuating. If the tenant-

right were taken into account I think the farms would not sell at 5*l.* an acre.

To Professor Baldwin—I took nothing into account but the land. The witness added that he estimated the fair rent of Hill Magee's farm at 12*s.* an acre, and Orr Sheppard's at 1*s.*, the latter being more easily laboured and more accessible.

On behalf of the landlord,

Mr. Henry Fox, agent of the property, stated that Mr. Tennent came into possession on the death of his father, about two years ago. He produced the rent book, which showed that some abatements had been made and some compensation paid for improvements.

Mr. Commissioner Greer said it was unnecessary for him to recapitulate the evidence given in the four cases in which Mr. Robert Tennent is the landlord. They had had the opportunity of personal inspection, accompanied by the landlord and the tenants. In the course of their visit they believed their attention was directed by both parties to every circumstance connected with the farms, of which it was desirable they should be informed. Taking everything into consideration, they had determined to make the following alterations in the present rents:—Robert Cooper, tenant; old rent, 18*l.*; present rent, 30*l.*; valuation, 27*l.* 10*s.*; judicial rent now fixed, 20*l.* 13*s.* 1*d.* Hill Magee, tenant; old rent, 27*l.* 10*s.*; present rent, 32*l.*; valuation, 20*l.*; judicial rent, 24*l.* 4*s.* 2*d.* William Larmour, tenant; old rent, 20*l.*; present rent, 27*l.*; valuation, 24*l.* 10*s.*; judicial rent, 23*l.* 9*s.* 6*d.* Orr Sheppard, tenant; old rent, 24*l.*; present rent, 27*l.*; valuation, 18*l.* 10*s.*; judicial rent, 23*l.* 4*s.* 9*d.*

Mr. Commissioner Greer intimated that in these cases the tenants should get their costs.

Mr. Overend, for the landlord, said he did not ask for a reconsideration of the decision, but, having regard to the importance of the question as regarded costs, he thought it would be well if some principle were laid down for their future guidance. In this particular instance he did not see why the landlords should be obliged to pay the costs, inasmuch as there had been a large reduction of rent.

Mr. Commissioner Greer—We have fully considered the matter, and we have come to the conclusion that he ought to pay their costs (applause).

The total reduction of Mr. Tennent's property is 24*l.* 8*s.* 6*d.*, which in the fifteen years will amount to 360*l.* 7*s.* 6*d.*

I have lately received from Mr. Fox, the agent for the Tennent and other estates in the North, some very interesting and useful 'farm reports' given in evidence before the Commissioners upon appeal by Mr. Tennent, showing the capabilities of the farms in question; also the reports of the assessors, Mr. Murrough O'Brien and Mr. Grey, and an explanatory letter, all of which I have here set out. It would seem, however, that Mr. Fox has valued the goodwill at too low a rate.

## WILLIAM LARMOUR.

	£	s.	d.	£	s.	d.
Gross value of produce as cropped in 1881 . . . . .				253	8	6
Gross cost of labour . . . . .	£52	8	7			
Seed . . . . .	28	13	11			
Manure . . . . .	51	14	10			
				127	17	4
Superintendence, 10s. per acre . . . . .	9	12	6			
5 per cent. on 200 <i>l.</i> or 10 <i>l.</i> per acre. Capital 10s. per acre . . . . .	9	12	6			
Repairs, 4s. per acre . . . . .	3	17	0			
Insurance and contingencies, 2s. 6 <i>d.</i> per acre . . . . .	2	8	1			
				25	10	1
Taxes . . . . .	2	17	9			
Present rent . . . . .	27	0	0			
				29	17	9
				183	5	2
Net Profit 1881, average prices . . . . .				70	3	4
5 per cent. on 150 <i>l.</i> , goodwill . . . . .				7	10	0
5 per cent. on 20 <i>l.</i> , permanent improvements . . . . .				1	0	0
5 per cent. on 170 <i>l.</i> , total interest of tenant in holding . . . . .						
4½ per cent. Sinking Fund, to recoup 20 <i>l.</i> in 16 years . . . . .				0	18	0
25 per cent. business profit on 10 <i>l.</i> per acre on 200 <i>l.</i> invested as working capital . . . . .				50	0	0
				59	8	0
Hent, short charged . . . . .				10	15	4
Present rent . . . . .				27	0	0
				37	16	4
Futuro fair rent . . . . .						
The tenant, if he and his family do the manual labour of the farm will have for maintenance, per Col. 14 . . . . .	40	8	6			
Superintendence, per Col. 15 . . . . .	9	12	6			
Interest on working capital, per Col. 16 . . . . .	9	12	6			
Interest on goodwill, as above . . . . .	7	10	0			
Interest on permanent improvements, as above . . . . .	1	0	0			
Business profits, 35 per cent. as above . . . . .	50	0	0			
				117	18	6

The whole manual labour on this farm annually is represented by 1 man, 189 days, and 1 woman, 376 days.

10*l.* per statute acre is the sum taken as working capital.

Two years of net annual profits (70*l.* 3*s.* 4*d.* × 2 = 140*l.* 6*s.* 8*d.*) are taken to be what the goodwill should sell for as a commercial transaction, and that sum added to 20*l.*, the amount expended on permanent improvements, gives 160*l.* 6*s.* 8*d.* the whole tenant right or interest of the tenant in the holding.

## ROBERT COOPER.

	£	s.	d.	£	s.	d.
Gross value of produce as cropped in 1881 .				218	3	8
Gross cost of labour . . . . .	262	11	2			
Seed . . . . .	18	0	5			
Manure . . . . .	30	10	4			
	<hr/>			111	4	11
Superintendence, 10s. per acre . . . . .	10	17	3			
5 per cent. on 220 <i>l.</i> or 10 <i>l.</i> per acre. Capital 10s. per acre . . . . .	10	17	3			
Repairs, 4s. per acre . . . . .	4	6	11			
Insurance and contingencies, 2s. 6 <i>d.</i> per acre . . . . .	2	14	3			
	<hr/>			28	15	8
Taxes . . . . .	3	5	2			
Present rent . . . . .	30	0	0			
	<hr/>			33	5	2
	<hr/>					
Net Profit, 1881, average prices . . . . .				173	5	9
5 per cent. on 140 <i>l.</i> , goodwill . . . . .	7	0	0	74	17	11
5 per cent. on 30 <i>l.</i> , permanent improvements . . . . .	1	10	0			
Being 5 per cent. on 170 <i>l.</i> , total interest of tenant in holding.						
1½ per cent. sinking fund, to recoup 30 <i>l.</i> in 15 years . . . . .	1	7	0			
25 per cent. business profit on 10 <i>l.</i> per acre, or 220 <i>l.</i> invested as working capital . . . . .	55	0	0			
	<hr/>			64	17	9
	<hr/>					
Rent, short charged . . . . .				10	0	11
Present rent . . . . .				30	0	0
	<hr/>					
Future fair rent . . . . .				40	0	11
The tenant, if he and his family do the manual labour of the farm, will have for maintenance, per Col. 14 . . . . .	46	16	8			
Superintendence, per Col. 15 . . . . .	10	17	3			
Interest on working capital, per Col. 16 . . . . .	10	17	3			
Interest on goodwill, as above . . . . .	7	0	0			
Interest on permanent improvements, as above . . . . .	1	10	0			
Business profits, 25 per cent. as above . . . . .	55	0	0			
	<hr/>			131	1	2

The whole manual labour of this farm annually is represented by 1 man, 253 days, and 1 woman or boy 506 days.

10*l.* per statute acre is the sum taken as working capital.

Two years of net annual profits (74*l.* 17*s.* 11*d.* × 2 = 149*l.* 15*s.* 10*d.*) are taken to be what the goodwill should sell for as a commercial transaction, and that sum added to 30*l.*, the amount expended on permanent improvements, gives 179*l.* 15*s.* 10*d.* the whole tenant right or interest of the tenant in the holding.

## HILL MAGEE.

	£	s.	d.	£	s.	d.	
Gross value of produce, as cropped in 1881 .				258	14	3	
Gross cost of labour . . . . .	50	1	5				
Seed . . . . .	19	10	0				
Manure . . . . .	18	1	10				
	<hr/>			117	18	3	
Superintendence, 10s. per acre . . . . .	8	17	1				
5 per cent on 177 <i>l.</i> , or 10 <i>l.</i> per acre. Capital, 10s. per acre . . . . .	10	13	6				
Repairs, 4s. per acre . . . . .	3	10	10				
Insurance and contingencies, 3s. per acre . . . . .	2	13	2				
	<hr/>			25	13	7	
Taxes . . . . .	2	13	2				
Present rent . . . . .	32	0	0				
	<hr/>			34	13	2	
	<hr/>				178	0	0
Net profit, 1881, average prices . . . . .					70	14	3
5 per cent. on 146 <i>l.</i> , goodwill . . . . .	7	6	0				
5 per cent. on 100 <i>l.</i> , permanent improvements . . . . .	5	0	0				
5 per cent. on 216 <i>l.</i> , total interest of tenant in holding . . . . .							
4½ per cent. Sinking Fund to reconp 100 <i>l.</i> in 15 years . . . . .	4	10	0				
25 per cent. business profit on 10 <i>l.</i> per acre, or 177 <i>l.</i> , invested as working capital . . . . .	44	3	0				
	<hr/>				60	19	0
Rent, short charged . . . . .					9	15	3
Present rent . . . . .					32	0	0
	<hr/>				11	15	3
Future fair rent . . . . .							
The tenant, if he and his family do the manual labour of the farm, will have for maintenance, per Col. 14 . . . . .	37	7	7				
Superintendence, per Col. 15 . . . . .	8	17	1				
Interest on working capital, per Col. 16 . . . . .	10	12	6				
Interest on goodwill, as above . . . . .	7	0	0				
Interest on permanent improvements, as above . . . . .	5	0	0				
Business profits, 25 per cent, as above . . . . .	44	3	0				
	<hr/>				113	6	2

The whole manual labour on this farm annually is represented by 1 man 180 days, and 1 woman 378 days.

10*l.* per statute acre is the sum taken as working capital.

Two years of net annual profits (70*l.* 1*sh.* 3*d.* + 2 = 111*l.* 8*s.* 6*d.*) are taken to be what the goodwill should sell for as a commercial transaction, and that sum, added to 100*l.*, the amount expended on permanent improvements, gives 211*l.* 8*s.* 6*d.*, the whole tenant right or interest of the tenant in the holding.

## ORR SHEPHERD.

	£	s.	d.	£	s.	d.
Gross value of produce, as cropped in 1881 .				172	15	5
Gross cost of labour . . . . .	£32	3	2			
Seed . . . . .	11	15	9			
Manure . . . . .	25	4	3			
				69	3	3
Superintendence, 16s. 6d. per acre	12	3	10			
5 per cent. on 147l. 10s., or 10l. per acre. Capital, 10s. per acre	7	7	10			
Repairs, at 4s. per acre . . . .	3	19	2			
Insurance and contingencies, 2s. 6d. per acre . . . . .	1	17	0			
				21	7	10
Taxes . . . . .	1	17	0			
Present rent . . . . .	27	0	0			
				28	17	0
						122 8 0
Net profit, 1881, average prices . . . .						50 7 5
5 per cent. on 100l. 14s. 10d., goodwill .	5	0	0			
5 per cent. on 50l., permanent improvements	2	10	0			
Being 5 per cent. on 150l. 14s. 10d., total in- terest of tenant in holding.						
4½ per cent. sinking fund to recoup 50l. in 15 years . . . . .	2	5	0			
25 per cent. business profit on 10l. per acre, or 147l. 10s., invested as working capital	36	17	6			
						46 12 6
Rent, short charged . . . . .						3 14 11
Present rent . . . . .						27 0 0
						30 11 11
Future fair rent . . . . .						
The tenant, if he and his family do the manual labour of the farm, will have for main- tenance, per Col. 14 . . . . .	23	2	5			
Superintendence, per Col. 15 . . . . .	12	3	10			
Interest on working capital, per Col. 16 . .	7	7	10			
Interest on goodwill, as above . . . . .	5	0	0			
Interest on permanent improvements, as above . . . . .	2	10	0			
Business profits, 25 per cent., as above . .	36	17	6			
						87 1 7

The whole manual labour on this farm annually is represented by 1 man 186 days, and 1 woman 279 days.

10l. per statute acre is the sum taken as working capital.

Two years of net annual profits (50l. 7s. 5d. x 2 = 100l. 14s. 10d.) are taken to be what the goodwill should sell for as a commercial trans-  
action, and that sum, added to 50l., the amount expended on permanent  
improvements, gives 150l. 14s. 10d., the whole tenant-right or interest  
of the tenant in the holding.

'Belfast, January 13, 1882.

'Dear Sir,—As I think you may possibly be interested to know the result of the appeals made on behalf of Mr. Tennent against the judicial decisions of the Sub-Commissioners for County Down in the Dundonald cases, I enclose for your use in whatever way you think proper a statement (No. 1), summarising the evidence adduced at the re-hearing and proved before the Chief Commissioners yesterday. I also enclose four farm reports (No. 2), one for each of the farms in question—which were prepared and proved as to quantities, prices, and all other details, and submitted in evidence at the re-hearing before the Chief Commissioners yesterday, as a carefully considered effort or attempt to solve the very difficult problem at present confronting the Land Commission, that of determining upon a commercial basis what portion of the produce of land is to be taken as rent, and also, for the first time in the history of tenant-right, of evolving a plan upon which the tenant's interest in his holding may be equitably calculated. The principles upon which the report are based make its application equally available for any district where tenant-right or Ulster-custom is acknowledged.

'Good-will, or the hitherto undefined property of the tenant in the land, is represented by two years' purchase of the net annual profits. This sum, plus the total amount shown to have been expended by the tenant on permanent improvements, is taken as the tenant-right.

'Working capital is taken at 10*l.* per statute acre.

'Average prices of produce of past seven years in the nearest and best market.

'Local rates of wages of the district. And—

'The actual crops in the land in 1881, being the bases of calculation in each report.

'The synopsis attached to each farm report explains the result the report aims at. These reports I am preparing in all cases where notices have been served to have a fair rent fixed in the hope that, even if not adopted now, they will be useful at the end of the judicial term.

'You took such an interest in these especial cases at the time I had the pleasure of meeting you on the lands while waiting for the Sub-Commissioners, that I presume you to be equally interested in the final decision which I expect to be published about the time this letter reaches you.

'Believe me, Dear Sir,

'Yours faithfully,

'HENRY FOX.

'E. Cant-Wall, Esq.'



## TENANT'S ESTATE, COUNTY DOWN.

Gentlemen,—As the four farms mentioned in Mr. M. O'Brien's report of this day are the first that I have inspected for the purpose of valuation, you may find it useful if I mention my impressions in arriving at a 'fair rent.'

Three of these, Nos. 11, 13, and 14, strike me as farms on which tenant-farmers with an ordinary amount of skill and energy should have the land at this time in a much higher condition.

One of them in fact, No. 11, Larnmor, has the level field next his house and the road used as a market garden, and being within an easy way by road from Belfast, where the produce can be disposed of every day in the year, and manure brought back, the primary value of the land should be considerable. I need not repeat Mr. O'Brien's description of the land with which I agree, but I would point out to the Commissioners that, because the land rises from this garden field to the northern extremity, the tenant thinks it impossible to manure it, and that the land is worth only what it will produce by a poor system of cultivation. I know numbers of smaller farmers who show much greater skill in the cultivation, and who would use artificial manures abundantly and grow good crops.

Am I then to value this land as in the hands of an ordinarily capable farmer, or of one who makes his profit out of one field only? One of these farmers, No. 13, Hill Magee, assured me that he had not more than the seed oats in many years as a crop, and that this was owing to the badness of the land. Am I then to value this land at nothing or at a minus quantity?

If an ordinary small farmer would, by the application of 12s. an acre for artificial manures, which could be carried up the hill, increase his crop of oats by ten barrels to the acre, I should consider the rent he could reasonably pay a fair rent. The turnips, which can be sold in Belfast at 20s. a ton, are probably less than one-fifth of an ordinary crop, chiefly I think from ignorance in the cultivation. The draining, which has been done by No. 9, Orr Shepherd, is I consider quite useless; the drains made formerly and now exposed to our view are of no use at all, and those that are being made across them will in a very few years be as useless. Some of the fences are fairly kept, but I see nothing on these farms which can give the tenants any claim to hold them at less than the ordinary letting to a farmer of average skill, but, on the contrary, I think they would be even more fairly let to an average farmer at a higher rent than may be considered their present letting value to the farmers who occupy them.

I therefore exclude competition rents as well as the ignorance or apathy of the occupier, and value them at what I should put on them if I were letting them to one of the many fairly intelligent small farmers whom I have known during the last thirty years, and whom I have seen and should wish to see prosperous and contented.

My valuations are as follows, presuming that the landlord pays only half the poor's rate.

		Result of Appeal			Decision of		
		i s. d.			Chief Commissioners.		
		i	s.	d.	i	s.	d.
No. 9	Ort Shepherd	24	10	0	23	4	9
„ 11	Win. Larnour	24	0	0	23	9	6
„ 13	Hill Magee...	24	10	0	24	4	2
„ 14	R. Cooper.....	25	0	0	24	0	0
		94	0	0	94	18	5

I am, Gentlemen,

Your obedient servant,

The Irish Land Commissioners

(Signed) C. G. GREY.

December 31, 1881.

### TENNETT'S ESTATE, COUNTY DOWN.

Gentlemen,—

Appeal No. 9 Ort Shepherd. Appeal No. 13 Hill Magee.

„ „ 11 Win. Larnour. „ „ 14 R. Cooper.

These four farms adjoin each other; they are situated five miles west of Belfast on the northern side of the valley running from Belfast to Comber.

Dundonald station is within a mile's distance, and the approach to the farms from this station is steep and bad for a short distance; the road bounding the farms is an old county road, it being in bad repair.

The soil is gravelly loam, varying in depth. The farms are generally wet, and would require to be thoroughly drained before they could be cultivated to the best advantage.

Beyond a few occasional drains, many of which appear to be choked, no useful drainage has been done.

There are no buildings on the farm of Ort Shepherd, No. 9; on the other farms there are thatched dwelling-houses and offices of an inferior description, but, as I do not think they add to the value of the holdings, I exclude them from consideration.

The farms of Larnour and Cooper, Nos. 11 and 14, adjoin each other; they are nearly half a mile in length, and rise sharply nearly 300 ft. from the lowest to the highest part.

The other two farms are somewhat better in quality and situation.

The question may arise whether these farms are naturally bad or whether their present condition is due to the tenant's waste and neglect. The chief cause appears to me want of thorough drainage, which would cost 5l. or 6l. an acre, but which would vastly improve the farms. The occasional drains which appear to have been made from time to time have only a partial and temporary effect.

The only apparent improvements on these farms is the temporary reclamation of some rough ground by the clearing away of

furze and scrub, but this can scarcely be considered permanent or profitable work, as constant outlay would be required to keep it under cultivation.

*It does not seem to me that the tenants can claim to be credited with any improvements which have added to the letting value of these holdings. In fact they have not done justice to the land, which, situated as it is within easy reach of Belfast, is capable of great improvement.*

My valuation of these farms is as follows :—

				Result of Appeal Decision of Chief Commissioners.			
				£	s.	d.	
No. 9	Orr	Shepherd	22	0	0		23 4 0
„ 11	Wm.	Lurnmour	24	0	0		23 9 6
„ 13	Hill	Magee ...	24	10	0		24 4 3
„ 14	R.	Coopor.....	24	0	0		24 0 0
				<u>94</u>	<u>10</u>	<u>0</u>	<u>94 18 5</u>

I assume that the landlord pays half the poor rate but no other taxes.

(Signed)

MURROUGH O'BRIEN.

December 31, 1881.

## APPENDIX H.

### THE ENRIGHT CASE.

Before Sub-Commission No. 4, at Limerick.

*William L. Enright, tenant; Timothy Ryan and others,  
landlords.*

Mr. Ryan, solicitor for the tenant, said the tenant's farm was held under a lease, dated July 7, 1869, made by Cornelius Nash, since deceased, to John Enright, also deceased. The lease was for the life of Cornelius Nash, and at his death it expired. The present tenant succeeded in possession John Enright, to whom the lease was granted. The holding was described in the lease as containing 2a. 3r. 33p. Irish plantation measure, and 3r. 19p., in all 3a. 3r. 12p., the rent of which is 19l. 2s. 6d. The lands are situate within about three miles of Limerick, at a place called Ballyclough.

John Nolan, examined by Mr. Ryan—I am an extensive farmer living near Limerick. I know the lands of Ballyclough. They are in two divisions. The first is very light land, with six inches of surface. On the second the skin is fair enough, with other parts wild, and a muddy, retentive subsoil. A great portion of it is waste. The honest letting value of both divisions would be about 2l. per acre, Irish. We don't understand English acres here.

To Mr. Atkinson, Q.O. (for the landlord)—I have no claim here against my landlord. The whole place I only value at 8l.

though the tenant paid over 19*l.* *The present claimant keeps a respectable hotel at Castleconnell. I saw about three rods of the farm killed—the remainder never was, to my knowledge. I would not put 2*l.* an acre value on the place only that it is so near Mr. Bannatyne's Mill at Ballyclough. Butchers would pay 5*l.* an acre, but that is no criterion. Butchers and shippers have raised the price of the land near the city, but that is done up. Mr. Bannatyne might pay 10*l.* an acre because he has his flour mill there. I know other land near the city let at 2*l.* per acre and even less. I make no allowance for the place being within three miles of Limerick city with 45,000 inhabitants. I know that proximity to a city has raised land by 12*s.* an acre.*

To Mr. Ryan.—Mr. Alexander Bannatyne has a mansion on the ground. He pays 4*l.* per acre for it.

Mr. Timothy Ryan was examined to prove the expiration of the life in the lease.

John Ryan examined—I reside in the neighbourhood of the farm at Ballyclough. I would value this farm at from 3*s.* to 2*l.* per acre.

To Mr. Atkinson, Q.C.—I have a land claim myself.

Mr. Atkinson, Q.C.—You understand 'scratch me and I'll scratch you'?

Witness—*The land was mowed for twenty years. I admit that was hard on it.*

Mr. Atkinson, Q.C.—Yes, he scoured it till it was worthless and now he wants it at a reduced rent.

Witness would make no allowance on account of the farm being only three miles from Limerick. A fair rent is one that will let the poor tenant live on it.

Mr. Atkinson, Q.C.—And Mr. Enright is the 'poor' tenant!

Witness—Oh! no. I don't know, if put up to auction, that the land would bring 6*l.* an acre. I would not say that.

Mr. William Enright—I am the tenant. I hold other lands at Castleconnell. I am in possession since 1871. I have mowed it since, except for two years, when I grazed over it. I value the land at 2*l.* an acre. I kept it for convenience, but knew it was entirely too dear.

To Mr. Atkinson, Q.C.—I never put any manure on the farm. The valuation is 2*l.* 10*s.* in one part; on another 4*l.* 10*s.* The hay I got off would be worth 3*s.* or 2*l.* per ton.

Mr. Atkinson, Q.C.—That only cost 16*l.*, and yet you paid 19*l.*? Yes, I did not give it up. It was convenient, and I let the matter run on. I was about to part with it this year to Mr. Bannatyne, and he would not take it.

Mr. Atkinson, Q.C.—Will you give it up now? I would rather get a fair rent.

Mr. Atkinson—What is a fair rent? 2*l.* a year—I mean 2*l.* an acre.

This closed the evidence on behalf of the tenant's application, and

the following evidence was then given on behalf of the landlord.

John Coughlan said—I am caretaker for the landlord. Twenty years ago this farm was an orchard. When Mr. Enright got the place, it was far better than now. He always meadowed it since, and cut the after-grass. He never manured the place since he got it.

Timothy Ryan said—I am one of the owners. I know the place for twelve years. I have visited the farm this week along with Mr. Barrington, C.E. Mr. Enright owes 1½ year's rent up to November 1. He asked an abatement of rent last year of 10 per cent. He treated the land as described—meadowing every year, and not tilling it. I have been offered the same rent paid by Mr. Enright.

To Mr. Ryan—Mr. Nolan, one of the witnesses, pays 4*l.* an acre for land which is not so good as this.

William Barrington, C.E., said—I am employed under the Board of Works, and am well acquainted with the value of land. I visited the lands, and found the average surface to be 1 foot 7 inches deep. The farm lies along the bank of the Mulcair river. *Meadowing for twenty years is most injurious to land.* The fair letting value, I think, would be about 2*l.* 10*s.* per Irish acre; but *the lands around pay much higher.*

Mr. Reeves, Q.C., said they thought that there was an average surface of nine inches in depth, and that was a good average in favour of the landlord. No question arose as to improvements. It was stated that there were none made by either landlord or tenant. The lands seemed to have been meadowed for a period of about twenty years, and with the exception of two years in which manure was put upon them, very little manure was used, but the grass was consumed upon the lands. It would take considerable improvements to put the lands in good condition. The landlord and tenant were equally apathetic in the matter of non-improving. It was not stated that the landlord had remonstrated with the tenant for not making improvements, and, on the other hand, it was not alleged that the tenant had applied to the landlord to drain or otherwise improve the lands. Mr. Atkinson had ably contended that the tenant having brought the land into an inferior condition by bad husbandry, should not now get his rent reduced. They did not intend to give any advantage to the careless and negligent tenant; neither would they set a premium upon bad husbandry. The estimate they had arrived at appeared to be a fair one, as to the rent the tenant in this case should pay in future. Two of the witnesses for the tenant said the lands were worth from about 30*s.* to 2*l.* per acre, whilst a witness produced on behalf of the landlord, said 2*l.* 10*s.* per acre would, in his opinion, be a fair rent. After the hearing of the case, they (the Sub-Commissioners) made a careful examination of the place, and taking into account its situation, its close proximity to Mr. Banuatyne's mill, and every other advantage connected with it, they declared that a fair rent to be paid by the tenant to the land-

lord would be 9*l.* 11*s.* 3*d.* per annum, which was at the rate of 2*l.* 10*s.* per Irish acre, and rent to commence to run from next gale day. With regard to costs, no costs would be given. They thought that before the tenant entitled himself to costs he should be in a position to show that he had asked his landlord for a reduction before coming into court, and there was no evidence in this case that the tenant had done that. They did not say anything in their order as to county cess or poor rate. The tenant would get his declaration of a fixed rent, and the liability at law would attach as it now is. The whole spirit of the Act was that the tenant had an existing right, because otherwise he would have no *locus standi* in court. In every case in which the letting was before August 1, 1870, the liability as to county cess would be as it was before.

Notice of appeal was given on behalf of the landlord.

On a subsequent day, Mr. Commissioner Reeves said he was afraid their first decision was very much misunderstood. Where a tenant by systematic bad husbandry had brought land into a bad state, they would not give him the least benefit. They would treat the lands as if they were in a good state from proper industry and proper husbandry by the tenant. The reason they made such a substantial reduction in the first case was because they took that view, and dealt with the farm as if the lands had been properly treated. *The land had not, however, been properly drained, and that was a duty which devolved on the landlord.*

## APPENDIX I.

### BLAKE v. LORD CLARINA.

*James A. Blake, tenant; Major-General Lord Clarina, landlord (heard at Limerick).*

The tenant in this case was examined by Mr. Dundon (who appeared for him), and stated that his farm held under Lord Clarina contained 38*a.* 0*r.* 9*p.*, statute measure, or about 23 Irish acres. The rent is 52*l.* 15*s.* 2*d.*, and the Government valuation is 39*l.* 5*s.* He thought 1*l.* 5*s.* per acre would be a fair rent. After paying the working expenses of the farm he found that last season the proceeds from the farm were less by 1*l.* 6*s.* than the rent.

Mr. Atkinson, Q.C. (for the landlord)—Were you offered 150*l.* for your interest in this place? I was, and would not accept of it. Lord Clarina offered that sum to me in August last, when he was about to take up possession through the Sheriff. I paid 600*l.* for another farm.

How much of that did you save? About half.

And you saved that although you were going 1*l.* 6*s.* each year to the bad? When did you get possession? In 1863. I never asked an abatement from Lord Clarina. When I spoke to him he told me

that his lands were all let too cheap. In some places the soil is only two inches deep. I would not take 150*l.* for the farm now. I have here some of the strata that I picked up from under the surface. (Witness produced a handkerchief full of stones which he handed to the Sub-Commissioners.) The farm was not adapted for dairy purposes. It would pay better as a tillage farm. *Witness had given 100*l.* for another farm. He got 450*l.* as a fortune with his wife, but had paid 300*l.* to his sisters.*

A witness named Finnican said he thought 1*l.* an acre would be a fair rent for this farm. The cost of production had increased in some instances 300 per cent.

In reply to Mr. Atkinson, Q.C., witness said he had acted as secretary in this district of the Land League.

John B. Houston, J.P., stated that the value of the produce of the tenant's farm would be about 12*l.* to 13*l.* per acre, and the cost of production and harvesting would be about 3*l.* per acre. The land was worth 2*l.* 2*s.* per acre.

John Hugh Massey also valued the rent at 2*l.* 2*s.* per acre.

It was further proved that the same rent had been paid in this case for forty-three years past. The Commissioners, however, reduced the rent to 44*l.*

## APPENDIX J.

### TAYLOR v. ARRAN.

*Matthew Beresford Taylor, Tenant; the Earl of Arran,  
Landlord (heard at Ballina).*

Mr. O'Malley (instructed by Mr. Alfred Kelly) appeared for the tenant; Mr. Bird (instructed by Mr. M'Andrew) appeared for the Earl of Arran.

Mr. Bird informed the Court that this was an English-managed estate, under the terms of the 4th sub-section of the 8th section of the Act.

Matthew Taylor (tenant) was examined by Mr. O'Malley, and deposed that his farm contained 111 acres and 27 perches statute measure. The rent was 57*l.* 11*s.*, and the valuation 27*l.* 10*s.* He was in possession of the holding for the past eight years. When he returned from Australia the place was all in ruin, with the exception of the house. He then proceeded to make improvements on the farm. He made permanent French drains, put up iron gates and stone pillars. Two acres were moor bog reclaimed, now worth about 12*s.* an acre. He spent 145*l.* out of his own pocket on labour. Twenty-one acres were shaking bog, pure morass, and twenty-six acres had been tilled for some time, but was in a reverting state. He spent 10*l.* on the house.

In reply to Mr. O'Shaughnessy, the witness stated that he

believed the farm was not worth more than the valuation. An extra 5*l.* might, perhaps, be added for the house.

Mr. Wm. Campbell, who said he was a practical farmer, gave evidence as to the condition of the farm. He (Campbell) believed that 27*l.* 15*s.* would be a fair rent, without buildings, or including them, 35*l.* 15*s.* a year would be a fair rent.

Mr. John Croan, agent for Lord Arran, was examined. He became agent in '70. There was a drainage scheme carried out on the estate, and there was a out made by the landlord in connection with the drainage, for which the landlord paid 14*l.* 1*s.* 2*d.* every half-year to the Board of Works. In the year '54 Ryan, the estate superintendent, commenced the work on it, and continued to improve it till '65. When he left the agency there was then 903*l.* expended, excluding the putting down of crops. The house was burned in '70, when Mr. Hunter, the late tenant, was in possession. It had been built at the landlord's expense. In August '74, 75*l.* 10*s.* was expended on the house. In December 1876, they commenced improvements which cost 50*l.* In 1879, 2*l.* 10*s.* was paid for repairs to the house, and 10*l.* for drainage. Witness further deposed that he was never asked to do work by the tenant that was not carried out. When the former tenant left the farm was in good condition. The estate gave rape, turnips, oats, parsnips, and carrots. It was not true that the tenant made reclamations. The present tenant told witness that he took three crops of oats off the land.

On cross-examination by Mr. O'Malley, the agent said that three or four landlords had joined in carrying out the drainage when in the district. The last agent sold carrots off the land. He did not know how many cattle were on the land.

Mr. O'Malley—Why did Hunter leave the farm? Was it not because he was a pauper? He left it because he got a better farm in the county Sligo.

How much money did Hunter lay out upon it? I cannot tell.

Mr. James Ward, examined by Mr. Bird, stated that he knew the place in 1864. He was then superintendent of the estate, and always did anything in the way of improvements which he was asked to do by the tenant. On one occasion he allowed 10*l.* for scouring a drain. The tenant erected gates and built fences. The gates were worth 12*l.* He never knew the tenant to make fences, but admitted that, to his knowledge, the tenant reclaimed about an acre of land.

The Chairman, in giving judgment in this case, said the evidence disclosed a peculiar state of facts, and raised, he believed, for the first time under the Act a question of farms managed under what was called the English system. In 1854 the landlord, through his estate superintendent, who is described as an experienced agriculturist, got possession of the holding under circumstances not given in evidence, and worked it till 1864, expending during that period 903*l.* on improvements. The holding was then let to a man



named Hunter. In 1869 or 1870 the dwelling-house was burned, and was rebuilt by the landlord at an expense of 100*l*. In 1871 Hunter ceased to be tenant, and the applicant, who had recently returned from Australia, became the tenant. It was not necessary to describe whether or not Hunter was the legal predecessor in title under the 17th section of the Act, as they had no evidence that Hunter made any improvements. Neither was there any evidence to show that the applicant was in any way coerced to take the holding or have his rent increased, or that he was otherwise badly treated by the landlord. He seemed to have taken it of his own free will on his return from Australia, and he still so held. His evidence went to show that he made some improvements, but this evidence was denied except as to scouring drains, which would appear to be the duty of the tenant, and erecting gates valued at 12*l*. It is sworn that he would have been recouped this last sum if he had applied for it. In 1875 the landlord expended 75*l*. on a barn and 50*l*. on the sheds. Last October, some injuries having been done by the storm, the tenant looked to the landlord to have them repaired, and orders were given on behalf of the landlord to have these repairs effected. The landlord contributed annually 14*l*. to a drainage by which the holding was said to be benefited. Under those circumstances the learned counsel for the landlord asked the Court to disallow the application on the ground specified in the 4th sub-section of the 8th section of the Act—namely, that those improvements were made and substantially maintained by the landlord. Counsel for the tenant in an able argument, urged that a special agreement in writing was necessary to bring the case under this section, but was unable to bring any words of the Act or any authority to sanction the contention. *On the whole, therefore, the Commissioners felt bound to rule that this application be disallowed on the ground specified in the 4th sub-section of the 8th section of the Act—namely, that the permanent improvements had been made by the landlord, and had been substantially maintained by him.* As to costs, they thought the case a proper one to submit to the Court, and would, therefore, order each party to pay his own costs.

## APPENDIX K.

### CREIGHTON v. NELSON.

Before Sub-Commission No. 2, at Lisburn, on Nov. 24:—

*Alexander Creighton, Tenant; Horatio Nelson, Landlord.*

This was also an application to have the rent fixed by the Court. The tenant holds 25a. and 35p., at 27*l*. 4*s*. Poor Law valuation, 26*l*. The Lands are situate at Leopughes, near Dromore. Mr. Nelson resided in Downpatrick.

Mr. M'Mordie appeared for the tenant, and Mr. Wellington Young appeared for the landlord.

Alexander Creighton, the tenant, was examined, and said he thought the Poor Law valuation of his holding was 26*l.*, including 10*l.* 1*s.* on buildings. He believed that the valuation was too high.

Chairman—*You need not trouble yourself about that. We don't attach any importance to it. We never look to it.*

The witness then said that he had been in joint occupation with his father from 1849 to 1860, when he gave his father 150*l.* for his interest in it. His father had bought the place from a man named Carroll for 40*l.*, and he had made a great deal of improvements. There had been an old scutcheon on the farm, and his father built a cornmill on it. His landlord then was Mr. Edward Turner, of Newry. *Witness's father made the outlay without assistance from the landlord. He believed his father spent about 400*l.* on it in the year 1851.* The mill was worked by water from the Lagan, which was the boundary between this and the Marquis of Downshire's estate. The millrace and the weir had been in a broken-down state, and it took a good deal of labour to put them right. He could not exactly say what expenditure there was on the race and weir. The dwelling-house had to be partly rebuilt, and they drained and fenced and they quarried over 2,000 yards of stone, and so made an acre of land, Irish, arable. About one-third of the farm consisted of rock and river, and was waste. He had to repair the banks of the river every year.

What was the rent of the farm before the mill was built? *There was no change in the rent these thirty years.* Mr. Nelson told him that the waterfall was worth 12*l.* a year.

To the Chairman—His rent had always been 27*l.* 4*s.* since he bought the place. The landlord did not increase it in respect of the waterfall. Mr. Nelson said he valued the land then at 15*l.*

Does the landlord charge you 12*l.* a year for the water? No, but he said he had a right to it.

Mr. Commissioner Baldwin—We may be asked to increase the rent in this case.

Mr. Young—Yes, I will ask you to increase it.

Mr. Baldwin (to the tenant)—Is it 1*l.* an Irish acre you pay? 1*l.* an Irish acre. The landlord wanted me to let him sell the weir, and said he would throw 12*l.* a year off—that he would let me have the land at 15*l.*

Mr. Baldwin—Would not that destroy the mill altogether? It would unless I put up steam.

Does the Marquis of Downshire's property near or run up to your mill? Yes; on the opposite side of the river.

Has the Marquis of Downshire any control over the water that runs by your mill? Yes; so he said.

Who owns the land on each side of the water that turns your mill? My landlord. The entire race runs through Mr. Nelson's land.

Which do you consider the more valuable—which would you

give up if you were called on to give up either? I would give up the mill if I were compensated.

What would you take for the mill with the water power? I never took that into consideration.

Would you take 27*l.* for it? Yes, I would.

If I have a purchaser for you, how much less than 37*l.* a year will you take and give up your interest in the mill and the race as they stand? I am not disposed to let it.

If an agreement were prepared to let this mill at 27*l.*, would you take it? No; I don't know that.

In reply to further questions,

You do not eat American bacon? Some.

What cattle have you? Two cows, a heifer, a mare and foal, two sheep, two sows, and two other pigs. We feed a deal of pigs.

Are you a farmer? I was reared up to it.

Are you not a millowner? Yes.

Would you be surprised to hear that this assignment contains only 5 acres? Yes.

Would you be surprised to hear that the rent was only 9*l.* a year?

Chairman—And he gave 150*l.* for it?

Witness—Ycs.

Chairman—You have 15 acres of arable land? Ton.

And your landlord put upon that an estimate of 15*l.* a year? Yes.

And 12*l.* on the water? Yes.

And you would not take 27*l.* a year for this mill? Well, I never took that into consideration.

*Mr. Young said he would ask the Court to raise the rent in this case.*

The Chairman asked for the assignment, which was handed to him.

In reply to *Mr. Young*, witness denied that in 1862 he stated in court, by the *Landpatrick*, that he estimated his loss, by a temporary stoppage of the mill, at 1*l.* a day.

*Mr. Jardine* was examined, and estimated the fair rent of the farm at 11*l.* 12*s.* 3*d.*

*Mr. Young* then opened the case for *Mr. Nelson*. He said that none of the lands about which they were now inquiring were within fifteen miles of where they were. He complained that the Land Commissioners in Dublin had selected cases for the early sittings of the Commissioners in the North with a view to induce the tenants to come into the courts.

*Mr. M'Mordie*—A conspiracy on the part of the Commissioners?

*Mr. Young* said he did not know why those cases were sent down by the Land Commissioners to be tried here unless the Commissioners appointed by the present Government were to play battledore and shuttlecock with the —

The Chairman—We will not go into that now.

Mr. Young said there would be a day of retribution, and that cases would come before them in which they would have to increase the rents. If ever there was a case in which the rent should be increased it was this. He then proceeded to speak of the operation of the Land Act, and of the number of claims entered under it, and said that not only English, but Irish capital would be driven out of the country.

Mr. M'Mordie—This is an undelivered speech for Derry.

Mr. Young—I am not going to Derry. Mr. Young then stated that this land was sold in the Incumbered Estates Court in 1852. A man named Turner had to part with it at that period, and he believed that as a result of the operation of the present Act a number of landlords would have to part with their property.

Mr. M'Mordie—I hope so.

Mr. Young said that at the time of the sale in 1852 the rental was 322*l.* 14*s.* 6*d.* The estates consisted of 333*a.* 4*r.* 5*p.*

Chairman—Do you know what your client paid for it?

Mr. Young—I do not. The land was cheap at the time.

Mr. M'Mordie—Your client can tell you. He is beside you.

Mr. Young—So are you. Mr. Young then said that the purchaser, Mr. McGaw, was the grandfather of Mr. Nelson. He not only did not increase, but reduced the rents, so that the rental, instead of being 322*l.*, was reduced to 276*l.* As to the value of the Creightons' farm, he said that Carroll, who formerly held it, had made 2,000*l.* out of this corn-mill. Mr. McGaw reduced the rent because of some injury to the mill; and though the reduction was only intended to be a temporary one, the tenant had had the advantage of it for thirty years. The rent was reduced from 26*s.* 8*d.* to 21*s.* 8*d.* an acre.

Mr. Commissioner Bulfinch here observed, with respect to the valuation, that he knew himself the letting value of land in Ireland, and he was in a position to say that, knowing the system on which the poor law valuation was based, it was no test of the letting value of land.

The Chairman, in the course of a discussion which followed, said that whatever property, mill or otherwise, was mentioned in the Landed Estates Court conveyance was conveyed to the landlord.

Mr. M'Mordie—Do you say, sir, that the Landed Estates Court conveyance overrid the tenant's improvements? I do. In this case the improvements were made by the predecessor in title to the present tenant, and he allowed his rights to lapse. He might have filed an objection to the rental in the Landed Estates Court, and have said, 'The mill is mine.'

Mr. M'Mordie—The tenant here says he spent 400*l.* on improvements.

Chairman—It is a point of law that is involved.

Mr. M'Mordie said if that were the way the Act was to be administered it would be all moonshine.

Chairman—Your clients have already got a substantial benefit under the Act.

Mr. Nelson, the landlord, was then examined in support of the statement made by Mr. Young. He never raised the rent on Croighton.

Mr. M'Mordie referred to the Land Act of 1870 for the purpose of showing that the chairman's ruling was incorrect, and that the sale of the property was subject to the tenant's property in his improvements, of which he was not deprived by the Act of 1870.

The Chairman adhered to his opinion that the interest under the conveyance passed to the landlord.

Mr. M'Mordie—If so the Act failed to protect the interest of the tenant.

Chairman—If I am wrong I should be glad you would bring the case before the Court above; but if you were arguing till morning you would not change my mind. I am perfectly conversant with the matter in my own practice, and I will facilitate you in every possible way.

Mr. M'Mordie said they would only have to take to the platforms in Ulster again to get their property.

Chairman—Let us go on with the case. This is not business.

Mr. Young said he had closed.

Mr. Nelson said, in reply to the Chairman, that he would have been satisfied with the rent he was receiving, but he would now leave the matter in the hands of the Court.

Mr. Baldwin asked Mr. Nelson whether he would expect the Commissioners to exclude from their consideration the expenditure of 400*l.* made by the tenant if the law required them to exclude it.

Mr. Young said they should give their decision according to law, and not press on the feelings of a landlord.

Mr. Baldwin—If the question be not strictly legal I withdraw it. We are expected to be judges of fair dealing. I do not profess to be a judge of law, but I profess to be a judge of fair dealing between man and man.

Mr. Nelson said he did not expect a large, but he expected a small increase of rent.

The Chairman then intimated that they would deliver their decision in this case to-morrow.

The Chairman, in pronouncing the decision of the Court, said—The case in which Horatio Nelson is the landlord, and Andrew Croighton is the tenant, and in which we have been asked by the tenant to fix a fair rent, is somewhat peculiar in its circumstances. The tenant's father bought the holding in 1849, when he gave a sum of 50*l.* for the farm, which then contained 30*ac.* 3*r.* 14*p.*, and which was held at a rent of 44*l.* The late Mr. Edward Turner was then the landlord. The present owner derives from his grandfather, who purchased Mr. Turner's interest in the property in the year 1852, on the occasion of a sale of the townland in the Incorporated Estates Court. The estate so sold consisted of 330*ac.* 2*r.* 25*p.*,

producing a rental of 322l. 14s. 6d., or about 20s. per statute acre. Immediately after the purchase by Mr. Nelson's predecessor a re-valuation of the property was made with the full consent and cognizance of the tenants, and the rental was reduced from 332l. 14s. 6d. to 276l., at which it has since remained. The rent of the present holding was then rated 25 per cent., and the rents of the other tenants 20 per cent. Now, upon this holding there is a valuable scutchmill, worked by water power, which water, so far as the evidence before us goes, is the property of the landlord. The tenant was examined, and he said that for the mill alone he would not like to accept a rent of 27l. Mr. M'Mordie contended that the mill and right to the water are the property of the tenant, and as such he is entitled to have the value of it deducted from his rent as a tenant's improvement. Mr. Young, on the other hand, has argued that it was never contemplated by the Act that such a holding should come within its provisions, or be regarded as an agricultural holding. Upon that question we are relieved from expressing any opinion at present, inasmuch as during the progress of the case Mr. Young put in evidence the Incumbered Estates Court rental under which the property was sold; and, upon the face of it, opposite the description of this particular holding, is the following observation:—‘On this holding there is a flour mill.’ Now, the effect of that observation upon the rental, as also upon the schedule attached to the Incumbered Estates Court conveyance, is, in my opinion—and I have so advised my colleagues—to rest my interest that the predecessor of the present tenant had in that mill and water in the purchaser under his deed, and consequently the tenant cannot now, under the provisions of the Land Act, ask for any abatement of his rent in respect of either. This I believe to be the law; but if I am wrong in the opinion I have expressed, and on the basis of which our decisions will proceed, I will only be too glad to be set right by an appeal to the Commissioners, and the tenant shall have every facility given him by the Court to procure a judicial decision upon the point. We feel strongly that for the foregoing reasons this is a case which the tenant should never have brought into court. His landlord has, in our opinion, acted fairly and considerately with him, and were it not that Mr. Nelson told us yesterday that he would be content with a small increase of rent, we would have considered it our duty to make a substantial addition to the present rent. The effect of our fixing a judicial rent in these cases is to relieve the tenant from the payment of half of the county cess, amounting in this case to about 1l. 12s. 6d. per annum, and if we allowed the rent to remain at 27l. 4s., we would in effect be mulcting the landlord to the extent of that amount annually. We will, therefore, fix the fair rent at 29l. 2s. 6d., and give the landlord his costs.

## APPENDIX L.

## FLAHIVE v. HUSSEY.

*Michael Flahive, Tenant; Samuel Murray Hussey, Landlord.*

The claimant held 33 acres statute measure at a rent of 55*l.*, the Poor Law valuation being 27*l.* 10*s.* He fell into arrears with the rent, and was evicted in July last. He sought to have a fair rent fixed, with a view to redemption.

Mr. D. B. Sullivan (instructed by Mr. Maurice Horgan, solicitor) for the tenant, and Mr. Hickson, (Q.C.), for the landlord.

The tenant's case was that the farm was originally held by his father at a rent of 40*l.*, which was afterwards increased to 55*l.* On going into possession of the farm he gave 50*l.* as security for the last gale, and he had never received it back. He fell into arrears during the last three years, being unable to make up the rent out of the land. He believed that 27*l.* or 28*l.* would be a fair value for it. He was evicted in July, and was readmitted for some time as a caretaker.

In reply to Mr. Hickson the witness denied that he signed any agreement, or that any agreement was read to him on going into possession. Mr. Hickson read an agreement to the effect that he had that day paid Mr. Hussey 55*l.* for getting possession of the lands, and he agreed that it should be held by Mr. Hussey as his own property without interest or repayment. The tenant added that he had an old house, and he once asked Mr. Hussey for some timber to roof it, and his reply was, if it does not answer you may give it up. (Groans and yells in Court.)

Mr. Commissioner M'Devitt directed the constables to watch the occupants of the gallery, and if any of them misconducted themselves, to bring them before him. It was to the credit of the people interested that the proceedings should be conducted with order.

Denis Kane, a farmer, estimated the fair rent of the farm at 30*l.* 6*s.* 3*d.*

William Fitzgerald, another farmer, gave similar evidence.

The tenant's case having closed.

Mr. Samuel Murray Hussey stated that when the old lease was made of the lands the price of butter was 70*s.* per cwt., as against 103*s.* now. When Flahive fell into arrears, and there was no likelihood of his being able to pay the rent, he agreed to give up the farm, and to take a house and an acre of land, which witness offered him rent free. Witness then put two men into the farm, but when the country became disturbed Flahive changed his mind, and witness had to evict him from the farm. Witness offered him an acre of ground rent free for life, or a sum of money to emigrate.

but he would not accept either. The present rent was fair at the present price of butter, this being a dairy farm.

Mr. John Edward Barrett, an extensive cultivator of ground in the county Cork, estimated the fair letting value of the holding at 5*l*.

The Commissioners ultimately reduced the rent considerably.

## APPENDIX M.

## CLEARY v. GASCOIGNE.

On the sitting of the Sub-Commission at Ennis, the Chairman proceeded to give judgment in the case of:—

*Patrick Cleary, Tenant: Colonel Gascoigne, Landlord.*

He said this was the case of the greatest magnitude they had as yet had to consider. *The holding comprised 285a. 3r. 11½ Irish plantation measure. The present rent was 840*l*., and the gross Poor Law valuation 612*l*. By a lease of November 1, 1794, Silver Oliver, the then landlord, demised to one Charles Creed part of the land of Ballinahinch, which contained 219a. 1r. 17p., at a rent in British currency of 34*l*. 4s. 4d. for three lives. In February, 1820, Mr. Thomas Cleary, the father of the tenant, purchased the lessee's interest for 2,450*l*. In 1855 Mr. Thomas Cleary took another portion of the lands of Ballinahinch, containing 63a. 3r. 12p., from the landlord, Colonel Gascoigne, as tenant, from year to year, at the yearly rent of 184*l*. The last life in the lease of 1793 dropped on April 18, 1867, and Mr. Thomas Cleary entered into a similar agreement to become tenant from year to year of the lands contained in the lease. The agreement bears date May 25, 1867, the rent, 600*l*., being an increase of 234*l*. 0s. 6d. over the old rent reserved by the lease. Thus, the rents payable under the two agreements amounted to 920*l*., and this latter Mr. Thomas Cleary paid till his death. It was proved that Mr. Thomas Cleary erected at a very large outlay an excellent dwelling house and offices on the lands, but they were compelled to exclude the present tenant from the benefits of those improvements. Mr. Thomas Cleary died on October 12, 1874, and thereupon the interest under the two agreements ended, and a new letting of both parcels of land was made to Mr. Patrick Cleary, the present tenant, at a rent of 840*l*. (the present rent), being an increase of 50*l*. per annum over the rent payable by his father. *They had in this case the assistance of Mr. Edward Langley Hunt, of Limerick, an independent valuer. He spent two days examining the lands. The result was so satisfactory that it enabled them, after a personal examination of the lands themselves, to come to the conclusion that the rent should be reduced from 840*l*. to 600*l*., each party to pay**



*their own costs*, and they would have to pay Mr. Hunt 15*l.* 15*s.* They would also make an order that Mr. Cleary should erect two additional houses for farm labourers, supplemented with half an acre of land, at a rent of 1*s.* 6*d.* a week.

Mr. Cleary said it was a grazing farm, and he did not require it.

Mr. Reeves—We understood you had no objection, and that you had been obliged to send to Killinno for labourers. You can get the money from the Board of Works.

Mr. Atkinson said this was a serious matter for the landlord, who had been deprived of 180*l.* for fifteen years, and it was most important that the skilled witness who had given his evidence to the Court in private, and upon which they had based their decision, should be subjected to the test of cross-examination and furnish a statement of all details.

Mr. Reeves—Our decision was not based on that report. It was contrary to the principles of all courts of justice to keep anything in secret. We will take a note of your objection.

Mr. Atkinson—Its wisdom and its justice may commend itself, and we may not go farther.

## APPENDIX N.

A case of *Carmody v. Talbot Crosbie* was heard at Killumney, on December 19, 1881. It was interesting from the fact that the estate was an 'English managed' one, Mr. Talbot Crosbie paying his tenants for all improvements which they effected, and Mr. Trench, his son-in-law and agent, personally looking after their comfort in every respect. Carmody, however, had refused payment for his improvements, and the following evidence given by him exemplifies the strong attachment of the Irish farmer to his land.

At the request of Mr. Morphy, the tenant Carmody was recalled, and asked what he would take for his interest in the farm. He replied that he should get his outlay, but he did not know of any man who would give it.

Mr. Commissioner M'Devitt—That is not an answer.

Witness—Where would I go to?

Mr. Morphy—How much will you take and walk out? I suppose about 1,200*l.*

Will you take that now?

Witness (promptly)—I will.

Mr. Morphy—Mr. Crosbie is here now, and there will be no difficulty. We will draw up the memorandum, and it can be signed at once.

Witness—But where am I to go, to put my pack on my back?

I never intended that answer, but it is not a proper question. I am an old man, and I never thought over it.

Mr. Murphy—Give me that memorandum. Whose handwriting is that memorandum in? My own.

Counsel (reading)—What will you take for your interest in the farm? I consider that was a proper question. I did not think that this would occur, but would you want me to go out with my pack on my back (laughter). You gave me that answer on the table. I must be prepared for it.

Will you take the 1,200*l.* and walk out? (No answer.)

Mr. Commissioner M'Devitt—You are an intelligent man, and why don't you answer? You said you would take 1,200*l.* and you go back on it.

Witness—Perhaps he might take the hall at the first hop and sell me out.

Mr. Commissioner M'Devitt—He cannot do that.

Witness—Well, that is the value I put on it.

Mr. Murphy—Will you take 1,200*l.* now, and walk out of the farm?

Witness (after a pause)—I will do no such thing. I would take it in the morning if I could get a place, but I could not.

We will give you until next May to get a place if you will leave. (No answer.)

Mr. Commissioner M'Devitt—If you are really serious in this offer I think you should give the man an opportunity of consulting his counsel.

Mr. Sullivan—Certainly.

The tenant then retired, accompanied by his solicitor and counsel, and, after a few minutes' absence,

Mr. Sullivan said he was instructed to say that the tenant was quite satisfied to have the tenant-right assessed at 1,200*l.*, and, in the event of his being compelled to quit the farm at any time through the exercise of any statutory power by the landlord, he was satisfied that the landlord should have the right of pre-emption, and to purchase at that sum; but beyond that he would not go. He was an old man, and if he were asked what he would take to leave the farm, he would reply that he would die where he lived.

Mr. Murphy—Then there is no sum that would induce him to leave?

Carmody—My burial-place is up near it, and it is there I have lived, and it is there I will die.

The rent was afterwards reduced, but not considerably.

## APPENDIX O.

## THE DUNSEATH CASES.

The following is extracted from the original judgment of the Sub-Commission in the Dunseath cases:—

The Chairman, in delivering judgment, then said—In pronouncing our decisions in the cases which we have here, there is nothing, in our opinion, that calls for any special observations. Shortly stated, the facts are these—Prior to the month of November, 1850, the Earl of Mountcashel was the owner of large estates in this county, and the landlords in the cases which have been brought before us acquired their interest in the several properties by the purchase of different lots of that nobleman's property upon its being sold in the Court for the sale of Lumbered Estates in Ireland in that year. During the long period that Lord Mountcashel and his ancestor continued in the enjoyment of the property, no increase in the rent would appear to have taken place, and from the Lumbered Estates Court rental, which has been handed in, the average rent over the three townlands with which we are immediately concerned did not exceed 16s. per statute acre, and as regards the townland of Sleamish, the rent was much under that average. In the month of April, 1851, the late Mr. Dunseath purchased the townland of Kildownoy for a sum of 6,000*l*. It contained 615 acres statute measure, and produced a net rental of 316*l*. It now produces 560*l*. Four of the tenants whose cases we have been dealing with hold under leases dated 2nd March, 1846. These leases expired in the year 1876, and in that year the rents were raised to a very considerable extent, and the tenants, having no voice or option in the matter, have since continued to pay the increased rents. That all the tenants are hardworking, frugal, industrious people is evidenced by the condition of their farms, each of which the Commissioners have visited and carefully inspected. They all have, however, testified that their rents are excessive, and such as they cannot continue to pay. Neither landlord nor agent has come forward in any of these cases to explain to the Commissioners the circumstances which, in their judgment, justified the serious additions which were made to the rents in the year 1876, and we are thus left to draw our own conclusions, and deal with the cases in their nakedness, so far at least as the evidence given us for the landlords is concerned. Mr. Overend, who appeared for the landlords, has contended, as he did in other cases in Belfast, that upon the extinction of the leases all the improvements which had been executed by the tenants or their predecessors in title, even including the reclamation of waste land, reverted to and became vested in the landlord, and that the tenants thereupon ceased to have any property in them. In that opinion

we certainly cannot concur (applause). The Chairman called for silence, and proceeded—We feel that, having regard to the explicit provisions of the 8th section of the Act, we are bound to give to the tenant the full benefit of all improvements made by him or his predecessors in title, and for which, in our opinion, he has not been paid or otherwise compensated by his landlord; and to do otherwise, and to declare that the improvements effected in these cases by the hard toil and industry of the tenants should become the property of the landlord, would not be in accordance either with the spirit or letter of the Act which we are here to administer. Therefore, considering all the circumstances of these cases, the capacity of the holdings in the hands of ordinary industrious farmers, and the district in which they are situate, we have come to the conclusion that the following will be the fair judicial rent of each holding for the next fifteen years:—

*Mrs. Dunsrath's Property.*

Tenant.	Valuation.	Present Rent.	Judicial Rent.
	£ s. d.	£ s. d.	£ s. d.
David Adams . .	24 10 0	36 0 0	30 15 0

There was applause in court after the chairman had concluded.

Mr. Ciruth said that the notice had been recorded pursuant to the 60th section. He thought the Commissioners should say that the tenants paying on next gale day should only have to pay the judicial rent from the 1st of November instant.

The Chairman—We understand that the effect of these decisions is that the new rent is to be the rent from the 1st of the present November. I have to add to our judgment in these cases that we give costs to the tenants.

Mr. Oversend—The tenants are under the impression that the originating notices have an effect on the arrears of rent. We ask that the decision shall have no retrospective effect.

The Chairman—In fixing a fair rent from the 1st of November that has nothing to do with the obligation of the tenant to pay the arrears.

APPENDIX P.

During the delivery of a judgment of the Sub-Commission sitting at Manorbannilton, county Leitrim, the chairman, Mr. Roche, said:—

Before leaving these cases, there is one incident of a painful nature to which I desire to refer publicly. On the farm of William Mulholland we were not informed of the existence of a labourer's dwelling. A chance question elicited the fact. On our insisting to see this dwelling—or rather this ruin—we found the wife of the unfortunate labourer, Andrew Kerrigan, in tears. The labourer

himself had been purposely removed from the land by the tenant on the day of our visit; but not content with this precaution, the tenant, on the morning of our visit, came to the house, and threw water on the few sods of turf which were smoking on the hearth, for fear the smoke might reveal to us the fact that the hovel was inhabited. There is little cause to wonder at this anxiety to conceal the existence of such a sty. I say it, without fear of contradiction, that on a well-regulated farm such an erection would be thought an unsuitable shelter for a cow or a pig. Without a window, without a chimney, almost without a roof, it was and is an outrage to humanity that two human beings should be expected to support life in such a place. I can only say, I don't envy the conscience of William Mulholland and his son. We order William Mulholland to erect, before the next gale day, a habitable house for a labourer, containing two rooms, with one window in the room and two in the kitchen, with one rood of ground attached, at 6*d.* per week.<sup>2</sup>

Mr. Commissioner Morrison wished to say a few words also. He said the farm he visited on Lord Massey's property, if drained, would be much of it good land. The holdings were compact, conveniently situated as to bog suitable for turbarry, and—what would in his country be considered of immense advantage—an unlimited supply for mixing with lime and manure for agricultural purposes. 'My neighbours consider that about two-thirds of their manure is made by this way of using bog. I have been over the lands, with one or two exceptions in every enclosure, and had the soil dug up where I thought it necessary. Their produce was mostly hay. I was in the dwelling-house, and saw their mode of life. In the offices I saw their stock. The office houses scarcely deserve the name. The lands appear no better, if no worse, than when in a primordial state. The same remark applied to a large district of country as far as the eye can reach; the only appearance of life is some cattle in the fields, and smoke from the dwellings. The why and wherefore I cannot tell. I state what I saw. What I saw before leaving home I thought was not to be seen in Ireland. On the same day I visited two farms about six miles distant. On the farm of M'Gowan, tenant (Johnston, landlord), I saw very great improvements, and much done under more difficult circumstances.'

## APPENDIX Q.

October 25, 1881.

In *Semple v. Hunter* and wife, the Chief Commissioners held that the county court, and not the commission, must be applied to restrain a plaintiff from executing a decree for ejectment obtained in the county court pending a notice to fix a fair rent.

In *Kuiper v. Armstrong*, the Chief Commissioners decided that a claim for compensation for disturbance, under the Act of 1870, will not be transferred from the county court to the commission court.

November 2, 1881.

In *Cooper v. Duignan*, it was decided by the Chief Commissioner that a tenant under lease cannot have a fair rent fixed until he has got his lease set aside.

November 10, 1881.

In *Baillie v. Montgomery*, the Chief Commissioners decided that a tenant has no right to have the time for redemption or sale extended without prejudice to the right to have a fair rent fixed as a 'present tenant' under the Land Act; the two rights being inconsistent.

In *Stack v. Plummer*, Mr. Reeves, Q.C. (Assistant Commissioner), held that where the tenant had allowed his tenancy from year to year to be taken in execution, and sold, before the Act passed, he had lost his tenancy, and the benefit of the Act; although the conveyance from the Sheriff to the purchaser was not executed until after the passing of the Act.

December 8, 1881.

In *Bligh v. Kirwan*, Mr. Justice O'Hagan said that 'in order to break a lease, they must find (1) that the applicant was a tenant from year to year at the making of the lease; (2) that the lease contained conditions unreasonable or unfair, having regard to the Act of 1870; (3), that the lease was obtained by threats of eviction.'

And in *Ewart v. Gray* (December 20) Mr. Commissioner Litton said that 'the reservation of an exorbitant rent was in itself a term of the lease which might be unfair and unreasonable to the tenant, having regard to the Act of 1870.'

## APPENDIX R.

### JUDGE FITZGERALD'S CHARGE.

When opening of the Munster Winter Assizes, at Cork, on December 6, 1881, the Right Hon. Mr. Justice Fitzgerald, in addressing the Grand Jury, said:—

'Mr. Lyons and Gentlemen of the Grand Jury—This is the second occasion upon which I have the honour of opening the Queen's Commission for the Munster Winter Assize county, and as I addressed many this time twelve months who are now on the Grand Jury, and explained then the nature and extent of your jurisdiction, it is unnecessary to detain you by doing so now. Your duties

embrace four great counties of the province of Munster, large in territory, and having a population somewhere altogether of 1,200,000, of which one half belongs to the city and county of Cork. Gentlemen, upon the occasion on which I addressed you here last year I called your attention to the statistics of crime in the district, and the observations I then made to you were subjected to some adverse criticism: it is now twelve months after that time, and, with the additional experience which that time has given me, I have nothing to retract, nothing to alter, nothing to wish unsaid of those observations. I have now lying before me the criminal statistics of this wide district, consisting, as it does, of four counties and two cities; and, in calling your attention to them in detail, I wish to say that I do so on entirely official sources. I have before me the reports of the three Crown Solicitors Mr. Gregg, of Cork; Mr. Morphy, of Kerry and Clare; and Mr. Roche, of the county of Limerick—three gentlemen of great intelligence; but these reports only give the cases now for trial, and do not represent the state of the district. There are other reports, the reports of the county inspectors, on which I place great reliance, and which are all carefully prepared, and examining these documents, and looking over the cases in them, excluding altogether from consideration ordinary ones, and referring to those which are agrarian, I will bring before you the state of this extensive district. The period over which it will extend is the four months since the last assizes. In the East Riding, I am sorry to say, and I say it with great grief, that with the exception of the City of Cork, there is no diminution of crime, but on the contrary a substantial increase. In the four months 233 indictable offences are reported to have occurred, against 127 in the four months preceding the Winter Assizes of 1880, and these are exclusive of all common assaults and petty larcenies, and include only major offences. There was one case of murder, 35 cases of threats to murder, in addition to 63 cases of ordinary threatening, 4 cases of firing at the person, 26 cases of malicious burnings, 12 of maiming cattle, a crime that alienates from us all sympathy, and it ought. There are malicious injuries to property 18, and 10 cases of seizing arms, of levying contribution by armed parties, 14 of assaulting dwellings at night. *We are now so used to threatening notices that we are beginning to disregard them, but, nevertheless, they make a person exceedingly uncomfortable, and drive respectable people from amongst us. The perpetrators of these things are seldom brought to justice, and they can only be put down by the people themselves.* The case of murder was that of Patrick O'Leary, who was attacked by an armed party and shot because he paid his rent. A person named M'Carthy is threatened with death because he paid his rent. Another person is threatened with death because he employed the horses of a boycotted farmer. I then come to the case of a gentleman named Hartnett. I don't know what his offence was, but, for some reason or other, he was boycotted, and the dastardly course is pursued of sending letters threatening to kill and murder his household, his

servants, if they don't leave him. Six or seven letters were served upon persons within his house threatening them with death if they did not leave Mr. Hartnett's service, the object being to completely isolate him, to subject him to that social isolation which is almost worse than death. I find also a case—I will not mention the locality—in which the dispensary doctor was removed by the dispensary committee for some reason or other, and every member of the committee has got a letter threatening him with death in consequence. I find also a notice served on Lord Shannon's tenants threatening them with death if they paid any rents to him. *Again, a person named Cornelius Donovan gets a letter threatening him with death if he allowed his son to join the Constabulary.* Again, I find that five farmers having paid their rents, there was a general notice threatening with death any one who would hold any communication with them, their only offence being that they were honest enough to pay their rent. Then, turning to the cases of firing with intent to murder, I find that four shots were fired into the bedroom of a family named Mahony, where there were three persons at the time, but happily no one was injured. Then there is the case of a justice of the peace returning from petty sessions fired at, and his offence was that he had assented to the conviction of some parties who had assaulted the police. *Then there are cases of persons being intimidated and threatened because they did not subscribe to a testimonial to the outgoing chairman of the local Land League.* Next I find that a bomb or some dangerous explosive was thrown in through the window of a solicitor's house, because he had issued some writs to compel the payment of rents. Going to the West Riding I find its condition to be quite as deplorable. For the four months previous to the Winter Assizes of 1880 the number of indictable offences reported was 107, but they amount to 240 this year. Of these one was a murder, but I will not dwell on that, because it was not of the class known as agrarian. It was not one of those crimes that strike at the foundation of society. There are in the West Riding reported 19 cases of letters threatening to murder; killing and maiming cattle, 11; sending letters threatening to injure, 21; wilful and malicious injury to property, 28; seizing arms and levying money or goods, 30; and the expression generally used when the money is taken is that it is 'for the good of the country.' There are also 22 cases of assaulting a dwelling-house, and 4 of firing into dwelling-houses. As to the threats to murder, it seems that a man named Ryan, who intended to emigrate, sold the interest of his farm to a man named Sheffield; some higher authority, however, steps in and threatens Sheffield that if he takes the farm he will be murdered. Another threatening notice is found posted up, warning all persons not to work for a Mr. Lyne, and offering 10*l.* reward to any one who would kill Lyne. As to the cases of malicious burnings in the West Riding, the county inspector in many cases reported that they were not malicious, but accidental. In two cases, there are attempts to blow up houses, one with dynamite and the



other with gunpowder, which is a new form of crime amongst us. Then there are cases of seizing arms, a species of offence which recently had its rise in Kerry, but which has now extended to the East and West Ridings of this county. *To show the terrorism to which the people have been reduced, I may say that in nineteen cases out of twenty the people attacked have refused to make informations or to prosecute.* In the county Kerry there are now 223 offences reported by the county inspector, as against 156 reported for the four months previous to the Winter Assizes of 1880. Amongst those are 2 cases of murder, 11 of letters threatening to murder, 1 of wounding, 11 of arson, 11 of killing and maiming cattle, 23 of seizing arms and levying contributions, and 72 of ordinary threatening letters. In one case some women have been made amiable—a case in which they stripped a process-server stark naked, forgetting sex and decency, and, having drenched him with mud, drove him in that state through the country. *In some cases about 100 men armed and disguised went round the country at night, warning the people not to pay rent until Parnell and his confederates were released.* Turning now to the county of Limerick, I find that at the Winter Assizes of 1880 there were 141 cases, while at the present assizes there are 191. There were six cases of threatening to murder, 6 for firing at the person, 57 for arson, 3 for assembling armed, 32 of armed parties levying contributions, not to mind printed notices threatening. *A man is threatened with murder because he did not join the Land League, and another because he gave a lift on his car to a person who was boycotted.* To show how carefully these returns are made up, there are several cases set down as accidental, and others are arising out of family quarrels, and not being connected with agrarian matters, but these are exclusive of the cases quoted. The house of Capt. Lloyd, a country gentleman, is attempted to be blown up because he acted as deputy-sheriff. Another man is visited by an armed party because he sent his cows to graze on the lands of the Rev. Mr. Westrop, who, I suppose, was boycotted. A valued friend of mine, Mr. Ferguson, the Chairman of the West Riding, who is so respected for his fairness, impartiality, and kindness, has the misfortune of having a property in the county of Limerick, and his house was wrecked. In the county of Clare, in whose welfare I am a little interested, I find that the condition of things has not improved. This time last year the number of cases from Clare was 76, now it is 174, of which 3 are cases of murder, 17 cases of threatening to murder, 7 firing at the person, 18 arson, 17 firing into dwellings, and 65 ordinary threatening letters. The city of Cork, I am glad to say, is an exception to the general rule, and, with the exception of the threatening letter sent to the Rev. Dr. Webster, a valued Christian minister, who imported some matters from England, and whose life was in consequence threatened so that he was obliged to leave the city for a while, there was nothing discreditable in the city. The city of Limerick, however, was not satisfactory. There were three cases of murder, of, however, the ordinary kind, and not such as are calculated to create alarm

for the public safety. In Limorick there was a tendency towards resistance to the law, and several serious and aggravated riots occurred there, and, as usual in such cases, the innocent suffered. The general deduction from the statistics which I have laid before you seems to be that in *many and large parts of the four counties which constitute the Munster Winter Assize Commission, life continues to be insecure, or is rendered so miserable as to be worthless—right is disregarded, and property is unsafe—the spirit of lawlessness and disorder, marked by an insolent defiance of law and of authority, continues to prevail.* It is only by the aid of an overwhelming military force that the process of the law can be executed. The humbler classes continue to be oppressed by an odious tyranny. It has been said or written somewhere that the duty of a judge on occasions like the present is great reserve; but I, on the contrary, think that his duty is to speak out and direct public attention to the condition of the district as it appears on reliable official information. It is, gentlemen, my duty on the present occasion to confer with you, the grand inquest of the province, on the maintenance of peace and order, and to ask your aid in upholding the majesty of the law. The reports of crime and outrage which I have been obliged, most unwillingly, to bring before you, even when reduced by a large deduction for mistakes, exaggeration, or concoction, and by eliminating all cases of ordinary crime, still leave a list of outrages so formidable as to be inconsistent with public peace and security, and which, if suffered to continue unchecked and unsuppressed, threaten the very existence of the fabric of society. When I had the honour of addressing you in December, 1880, I ventured to pass the strict line of duty when I said ‘that you and I and all well-thinking people were prepared to make any sacrifice if doing so could procure the restoration of peace and prosperity.’ The sacrifice has since been made and consummated by the Legislature in a measure so large and unprecedented that even the most sanguine advocate of tenant-right could not have anticipated it twelve months ago. But has the public obtained the fruits in the restoration of peace and order? Certainly not as yet in Munster. The experience of the last three months tells us so in unmistakable terms. Are we, therefore, to give way to despondency? It is too soon to despair; and I entertain the hope that there is a better prospect before us. I have learned—and on authority which I am inclined to trust—that intelligent farmers fully appreciate the benefits conferred on them, and are, as a class, inclined to withdraw from the trammels of illegality and crime. *It is not undeserving of remark that in the official reports now before me the parties suspected or accused of crime are not of the farming class.* This is an element of hope. If they take advantage of the vast benefits conferred on them by the Legislature to aid in the maintenance of law and order, they may prove to be the truest conservators of the country. The people at large too cannot fail to perceive that the results of the present state of the country are that capital has fled—even Irish capital represented by banking deposits in, to the extent of many millions, entirely employed

*in England.* There is no industrial enterprise, no employment for the labouring classes. Trade does not flourish, and I should fear to estimate the immense depreciation in all Irish securities and Irish property, caused by insecurity. The humbler classes are those who suffer most from the prevalence of crime and disorder, and they must continue to suffer and be subject to most grievous oppression until with their aid tranquillity shall have been restored. I appeal to all men, on the low ground of self-interest, to join in the restoration of peace and order and the maintenance of tranquillity, and I have no doubt that from you, gentlemen of the grand jury, I'll receive now effective aid in repressing crime by a fair and impartial but firm and determined enforcement of the law in the many and varied cases to be submitted to you.

## APPENDIX S.

The following is a farm report of a holding now in cultivation by a skilled farmer. It shows what may be done:—

Farm in county Tyrone containing . . .		160 acres	
Less, roads 3 acres, garden 4 acres, plantation 13 acres = . . .		20	„
7 fields of 20 acres each = . . .		140	„
Fields	Acres	£	£
1 of 20 in	Lea oats at 6 <i>l.</i> per acre . . .	120	
	oat straw, 40 tons at 1 <i>s.</i> 8 <i>d.</i> per cwt. . .	66	
			186
1 „ 20 „	green crops:—		
	potatoes, 10 acres, at 15 <i>l.</i> . . .	150	
	turnips, &c., 10 acres at 20 <i>l.</i> . . .	200	
			350
1 „ 20 „	wheat, at 9 <i>l.</i> per acre . . .	180	
	wheat straw, 40 tons at 2 <i>s.</i> per cwt. . .	80	
			260
1 „ 20 „	clover and grass, at 5 <i>l.</i> per acre . . .	100	
1 „ 20 „	hay, 30 tons at 2 <i>s.</i> 6 <i>d.</i> per cwt. . .	75	
1 „ 20 „	grazing, at 2 <i>l.</i> 10 <i>s.</i> per acre . . .	50	
1 „ 20 „	ditto, at 2 <i>l.</i> 10 <i>s.</i> per acre . . .	50	
			100
7	140		
Butter, 20 milch cows, average 6 lbs. each per week = 120 lbs. per week × 52 weeks =			
6,240 lbs. at 1 <i>s.</i> per lb. . . . .			314
Buttermilk, say $\frac{1}{4}$ of value of butter . . . . .			78
Gain on sale of strippers when springing, 10 at 5 <i>l.</i> . . .			50
			1,513

Deduct :—	£
Wages, at 4 <i>l.</i> per week . . . . .	208
Seeds, viz. : oats, 9 <i>l.</i> ; potatoes, 10 <i>l.</i> ; turnips, 3 <i>l.</i> ; wheat, 13 <i>l.</i> ; and clover, 15 <i>l.</i> . . . . .	50
Keep of 4 horses . . . . .	80
Flax seed and malt combs for feeding of 30 cows . . . . .	60
Blacksmith, and repairs to harness, &c. . . . .	15
Artificial manure . . . . .	10
Taxes, say . . . . .	20
	443
Consumed on farm for feeding :—	
Oat and wheat straw as above . . . . .	146
Hay, as above. . . . .	75
Grazing for summer months, as above . . . . .	100
Turnips as above . . . . .	200
	521
	964
Total profits . . . . .	£549

(Out of which the rent of 180*l.* is to come, or about 1-3rd of net profits.

## APPENDIX T.

THE ALLEGED SECRET INSTRUCTIONS TO THE LAND  
COMMISSIONERS.

Mr. Forster published the following letter, addressed to Mr. A. M. Kavanagh :—

‘January 5, 1822.

‘Dear Mr. Kavanagh,—I have to-day had an opportunity of reading your speech of last Monday, and in your remarks about the Sub-Commissioners under the Land Act I find you reported as saying, “I believe—and I am glad of being able now to make the statement publicly in order that her Majesty’s Government may have the opportunity of contradicting it if it is not correct—I believe there have been given secret instructions of a very grave nature, their acceptance of and their compliance with which is a condition of their appointment.” As a rule, I think it better to postpone replies to criticisms, either spoken or written, until I can make them in Parliament ; but upon so important a matter as this I cannot allow a gentleman of your high authority upon Irish affairs, and for whom I have so much personal respect and regard,

to labour under a misapprehension. Let me, therefore, at once contradict this statement, for which there is absolutely no foundation whatever, and respecting which you have doubtless been misinformed.

'I am, dear Mr. Kavanagh, yours sincerely,  
'W. E. FORSTER.'

Immediately upon returning to Dublin I wrote to the *Standard* as follows:—

### MR. KAVANAGH AND THE LAND COURT.

TO THE EDITOR OF THE 'STANDARD.'

'SIR,—Mr. Kavanagh, at the recent landlords' meeting in the Exhibition Palace, Dublin, stated that there had been given to the Assistant Commissioners by the Government, "secret instructions of a very grave nature, their acceptance of which and their compliance with which were conditions of their appointment." Mr. Kavanagh went on to illustrate the nature of these "instructions" from my account, printed in the "*Standard*" of December 26 last, of the principles supposed to have guided the Assistant Commissioners in arriving at their decisions. This very serious accusation has since been repelled by the Chief Secretary in emphatic terms.

'I am desirous of pointing out that there is no justification to be found, in the letter of mine referred to, for Mr. Kavanagh's charge against the Government and the Commission. The "principles" were stated by me to have been arrived at in an entirely independent manner—that is to say, by comparing and discussing together various views by the general body of the Commissioners, Assistant Commissioners, and their staff, after the general ability of the Assistant Commissioners to perform their duties had been tested by the Chief Secretary. These principles were not compulsory "instructions." Each Sub-Commission remained at liberty to select one or to reject them all. I append the words used by me, from which it will be seen that Mr. Kavanagh has, innocently, of course, confounded the preliminary examination with the subsequent independent discussion of principles. He has also omitted, of course accidentally, all reference to the last and most important of the Rules—namely, that they should be subject to modification after inspection of holdings by the lay Commissioners.

'I quite appreciate the difficulty of Mr. Kavanagh's position, he being largely responsible for the introduction of the principle of compulsory arbitration which has proved so disastrous to his order; but I must decline to be made the mouthpiece for a charge improbable in itself, and highly insulting both to an eminent Statesman and to a number of honourable gentlemen, Mr. Kavanagh's own

countrymen, among whom I am proud to number many personal friends.

"The following is the passage referred to in my letter of December 26 :—"No doubt what has been going on for the past two months is a kind of clumsy re-valuation of Irish land, in course of which injustice may have been done in a few special cases. But it is notorious that, before leaving Dublin for their districts, each of the Assistant Commissioners had to pass strict examinations, in which the Chief Secretary himself took part; and, further, that the necessary principles for determining fair rents were agreed to at a general meeting of the Chief and Assistant Commissioners and other officials. These principles are easily discoverable from their decisions, and were something like the following :—First, to carry out Healy's Clause as liberally as possible; secondly, where neither landlord nor tenant had improved the holding, but the landlord had, without apparent cause, raised the rent, to restore it to the old figure; thirdly, where there were no improvements nor raising of rents, and no other distinct index of value, to fall back upon Griffith's valuation. All such rules were to be subject to modification upon the inspection of each particular holding by the lay Commissioners."

'I am, Sir,

'January 9.

'YOUR SPECIAL CORRESPONDENT.'

## APPENDIX U.

During the Derry election contest, in November last, Mr. Porter, the Solicitor-General for Ireland, said at Maghera, on November 15:—

*I think it is of great importance to you, not as theorists but as practical men, to say in whose hands shall the working of the Land Act be put in future. Will you have it worked by the Tories, who have always been your enemies, or will you have it worked by men who are in sympathy with the people? That is the practical question we have to deal with.*

At Magherafelt on November 17 he said :—

Was it (the Land Act) passed because the rents were too low? No; it was passed because the fact was forced on the attention of the Legislature of Great Britain that the vast bulk of the land in this country was excessively over-rented—in many cases, as experience had shown, doubly rented. *What was to be done with the administration of that Act of Parliament? The administrators had been appointed to fix a fair rent. Were they to fix it at the existing rents? If the present rents were fair there would be no need for a Land Act. It was simply because it was demonstrated that the*

rents throughout the country were too large, that it became necessary to pass the Land Act at all. . . . The tenants had just cause for greater reductions than had been made; and this being so, whom would they send to Parliament to represent them?

Suppose a change of Ministry took place, and they had a Cabinet composed of Lord Salisbury, Sir Stafford Northcote, Mr. Gibson and others to appoint the men who would administer the Land Act, what would that Act be worth? The chances would be, judging from the recent experience, that that Act would be administered by persons who would make it a dead letter, a measure that would be worthless to the tenant-farmers.

At Cookstown on November 26 he said:—

*He had seen in some cases where the Sub-Commissioners reduced the rents, it appeared to him they had not reduced them sufficiently; but what were they to do? They could not control that, and they could only take care that proper and efficient persons were appointed under the Act, and if these persons went astray in point of law there was an appeal.*

## APPENDIX V.

### COMPENSATION TO LANDLORDS.

The following remarkable letter appeared lately in the 'Standard':

'SIR,—As the 'Standard' is one of the most influential papers which advocates compensation in proper cases to Irish landlords whose incomes shall have been reduced by the Irish Land Act now in course of administration, I hope you will permit me, who have the misfortune to belong to that unhappy class, to state, through your columns, a few facts connected with my own position, for I am sure it is by no means an exceptional one, as tending to illustrate the justice of your views. I am a landlord in a southern county; the rental of my estates is four thousand pounds a year. I succeeded to them thirty-five years ago, upon the decease of my uncle, who was tenant for life, as I myself am also, with power to appoint them amongst my sons in such sums as I think fit. The leasing power attached to these life estates not only enabled, but compelled each tenant for life—in the very words of the power—"to make leases without fine or foregift to solvent tenants, either from year to year, or for any term not exceeding thirty-one years, at the best and most improved rents that could be obtained for the same," and when I entered into possession I found that yearly lettings had been made by my predecessor, pursuant to his power, upon by far the greater portion of this property, exceeding Griffith's valuation by about one-third. Soon afterwards there came the

great potato blight and famine, and during the unfortunate years of its continuance twenty farms were surrendered to me, which remained upon my hands until the times improved, when I relet them, as I was bound by my leasing power to do, to solvent tenants at the best and most improved rents which I could obtain, and these rents also, which I obtained without the least difficulty, exceeding Griffith's valuation by about one-third. Here I may mention that I was intimately acquainted with the late Sir Richard Griffith, who himself informed me (and no one can deny that he was the very best authority in Ireland as to the letting value of Irish land) that as a general rule its fair letting value—not a rack rent, but its fair letting value—was about one-third over his valuation, which, as Mr. Gladstone stated in his speech at Leeds on October 7 last, “was a valuation much below the value in by far the greater number of cases, and framed for a different purpose.”

I may also mention that letters have lately been written to the public press by Sir Richard Griffith's daughter, Mrs. Bramston Smith, and by his son, the present Baronet, to the same effect, namely, that they were well aware, having often heard their father say so, that his valuation was about one-third under the fair letting value. I must now inform you that when I succeeded to my property I found it charged, as it still is, with old family incumbrances to the amount of twenty thousand pounds, bearing interest at five pounds per cent., so that my annual income, subject to the usual out-goings, is three thousand pounds a year; deducting from this sum title rent-charge, poor-rates, and agency fees, my net income is about two thousand six hundred pounds a year. I am a widower, with four sons, all of full age, and no other children. My four sons are married, and on their respective marriages I charged my estates with rent-charges for them. For the eldest, with six hundred pounds a year; for the second, with four hundred pounds; and for the two youngest with three hundred pounds each, reserving for myself, together with my demesne (what is sufficient for the diminished expenditure of my household) an income of one thousand pounds, and I covenanted with the various sets of trustees that at my death certain specified portions of my property, with rentals equivalent to these annuities, should be vested in them upon the trusts of their respective settlements; my eldest son, however, upon whom my demesne is settled, to have, in addition, an estate of the annual value of my own reserved income. I may now remark, that for the uninterrupted period of twenty-six years, and until the commencement of the recent anti-rent agitation, my rents have been paid with the utmost punctuality and cheerfulness. Never in any one year during that long period has there been even one shilling of rent in arrear, and never was there a complaint made by any tenant as to his being over-rented, and, save on two townlands on which there are very old leases, the rents reserved by which are a little under Griffith's valuation, never was there a more industrious or prosperous tenantry; for, strange as it may appear



to English land reformers, it is on these holdings where the rents are so low that there is the worst farming and the least prosperity. My rents, then, are fair, as proved not only by Sir Richard Griffith's interpretation of fairness, but by their punctual payment for such a lengthened period; fair, too, in the opinion of Parliament, which, by the Land Act of 1870, condemned only such rents as were plainly "exorbitant" (the word used in the Statute); and they are not only legal, but they would have been absolutely illegal, and a fraud as against those in remainder after my death, if they were less than the best improved rents that could have been obtained when the lettings were made by my predecessor and myself; and, more than this, having regard to the greatly increased value of produce since that time, I have every reasonable right to believe that these rents are lower than they ought to be and would be, if now let to solvent tenants upon the principle of demand and supply. And, as some proof that this is no unreasonable belief on my part, I may mention that in the early part of this year, before the nature of the now Land Law Act was disclosed to the public, I was offered by a perfectly solvent tenant, for a farm of eight acres, which had fallen into my possession, and which I still retain, the same rent which it had previously paid—eight pounds per annum—and, in addition, a fine of one hundred pounds, which of course I had no legal power to accept.

'Well, Sir, on my estate the work of confiscation has already commenced; all my tenants have gone into Court. For this I cannot blame them. Why should they not seek to obtain "those surprising benefits" (I use the language of one of the most eminent of our Roman Catholic Judges) which this Land Act has offered to an astonished public; and the result will be that I, hitherto a happy and prosperous proprietor, the representative of an ancient and respected family, shall, without any fault of mine, be actually beggared. I shall have to leave the home of my ancestors, where I resided in comfort, employing a large staff of labourers, endeavouring to discharge the duties of magistrate, poor-law guardian, and grand juror, absolutely a pauper, and at my advanced age unable to obtain any remunerative employment. Judicial rents have already been assessed upon eight of my best farms, and on each of them my hitherto well-paid rents have been reduced by one-quarter of their previous amount. Judging by this reduction, and by that made on an estate contiguous to my own, the land of which is of the same quality as mine, I cannot have the least doubt that my rental will be reduced by one-fourth—in other words, what has been for many years hitherto a well-paid rental of four thousand pounds a year, will become a judicial rental of three thousand pounds; so that I shall be deprived of my only source of subsistence, and my eldest son the income of which his wife's trustees bargained for, and which was one main consideration for his marriage. I have said nothing in this letter as to the cruelty of punishing the landlords with the cost of litigation endangered by

this revolutionary Statute—costs of their endeavours to maintain what even their greatest enemies must admit to be their clear legal rights.'

## APPENDIX W.

The following is a copy of the Land League ticket, possessed by every member. On the face, which is printed in green and orange, are represented a boy trying to break a bundle of sticks, with the motto, 'Union is strength,' and a man ploughing, and the following inscriptions—

IRKLAND FOR THE LUSH.	DOWN WITH LANDLORDISM.
<i>Branch.</i>	
THE IRISH NATIONAL LAND LEAGUE	
<i>was admitted a Member</i>	
<i>this</i>	<i>day of</i> 188
<i>Hon. Sec.</i>	
KIND A FIRM GRIP OF YOUR HOMESTEADS.	THE LAND FOR THE PEOPLE.

On the back is the following—

## OBJECTS OF THE LEAGUE.

The Irish National Land League was formed for the following objects :—

FIRST—To put an end to Rack-renting, Eviction, and Landlord Oppression.

SECOND—To effect such a radical change in the Land System of Ireland as will put it in the power of every Irish Farmer to become the owner, on fair terms, of the land he tills.

The means proposed to effect these objects are :—

(1) Organization amongst the people and Tenant Farmers for the purpose of self-defence, and inculcating the absolute necessity of their refusing to take any Farm from which another may be evicted, or from purchasing any Cattle or Goods which may be seized on for non-payment of impossible rent.

(2) The cultivation of public opinion by persistent exposure, in the Press and by Public Meetings, of the monstrous injustice of the present system, and of its ruinous results.

(3) A resolute demand for the reduction of the excessive rents which have brought the Irish People to a state of starvation.

(4) Temperate but firm resistance to oppression and injustice.

## APPENDIX X.

In justice to Mr. Evelyn Ashley, I publish the following letter sent by him to the 'Standard,' I presume with the intention of refuting the statements made in my letter, treating of his relations with his tenantry. The italics are mine. Mr. Ashley, it will be observed, treats Canon Brennan throughout as a kind of weak Dr. Faustus, transformed, at eighty-three, into a common barrator, by the Reverend young Mephistopheles, his curate. If the parish priest forwards a dignified remonstrance on behalf of the tenantry to their landlord, Mr. Ashley, detecting the handwriting of the tempter, sees through it all in a moment. He cannot, however, reply all at once—his feelings are too much for him. For a whole month he remains silent amid the Swiss mountains, offering the elevated spectacle of a man, conscious of the obligation to discharge a painful public duty, struggling with those natural 'feelings of respect' for a venerable culprit which the latter's blameless tenure of a sacred office for half a century and more have engendered. Then rousing himself, he sternly 'answers as he ought.' He suggests that 'pressure' was put upon the Canon to sign the letter; and that in the memorial which the Canon had confirmed, 'all that was true was trivial, and all that was serious was false;' 'firmness must take the place of misunderstood conciliation,' &c. Mr. Ashley describes himself as 'soft and yielding;' and upon these letters (produced by himself), asks his readers 'to judge' whether his correspondence with the priests was 'petulant and haughty,' as I had alleged.

The Canon is a tall, broad, hale old man, of powerful intelligence, massive in mind and body, courteous, amiable and straightforward; with the carriage of an ambassador and the heart of a child. He at once disclaimed the position of being a mere puppet in the hands of his curate. Mr. Ashley would now transfer the stigma to me. He brands me as a victim to the 'inexhaustible imaginativeness' of the 'curate' members of the 'tenant class.' Whether Father Cummins has risen from that humble class, I know not; but it is no discredit to him, that he was not so lucky in his ancestral connections as the Secretary to the Board of Trade. I must, however, protest that I am no more his dupe than Canon Brennan was. What I saw I described; what I heard I verified by assiduous inquiry, addressed to Mr. Ashley's own agents, amongst others. Nothing stated by me has been disproved; Canon Brennan has since written to say that 'every statement made can be fully corroborated;' and my principal complaints, to the effect

that Mr. Ashley had unreasonably refused to make any general abatement of rent, and to remove the gamekeeper, have been admitted, but not answered by him. With respect to the gamekeeper, as Father Commis's accusation and express statement are discredited, and suggested to be only lately 'thought of,' I should add that I myself saw a youth (not the one referred to by the Father), who described to me the cruel shooting of his little dog by the gamekeeper; and who was struck in the forehead by one of the shots. He took off his cap and touched the place. Mr. Ashley's explanation of his tenants' poverty is that they will 'continue to vegetate on two or three acres of land.' Now, considering that the Ministry of which the Hon. Evelyn Ashley is a member have passed an Act based upon the fundamental principle of the tenant's part ownership of his holding, and that their whole policy is to 'govern Ireland according to Irish ideas,' including the idea of 'sticking in the old country,' this explanation (the abstract reasonableness of which I cannot question), seems a little inconsistent and insufficient.

I recognise, as much as anyone, Mr. Ashley's high qualities: his industry, firmness, devotion to the public service, and political integrity. But I remain of opinion that a landlord who, at this crisis, after the decisions of the Sub-Commissions, maintained such an attitude towards his tenantry, is largely responsible for the lamentable state of the country. And I still consider that Mr. Ashley is fairly open to this censure.

### MR. EVELYN ASHLEY.

TO THE EDITOR OF THE 'STANDARD.'

SIR,—The 'Standard' of yesterday brings forcibly before me, that among the numerous ills to which Irish landlords are now a prey, not the least is that of being gibbeted by Special Correspondents who have not learnt the inexhaustible imaginativeness of the Irish tenant class when any special object is to be attained, *whether the member of that class be curate or farmer*. I will be as short as I can, but the detailed list of statements and charges made about me and my estate gives me a right to ask for a little of your space. It is not my fault if undue prominence is given to my private affairs.

Your correspondent holds me out as a wretched example of the evils which may arise from 'a haughty and defiant demeanour.' I cannot possibly plead guilty to this. The language of my tenants is, on the contrary, that *I am so soft and yielding* that they have only got to be firm in order to bully me out of anything. However this may be, I gave back to the tenants 80 per cent. of the rent for 1879, and 25 per cent. of that for 1880, and this on rents which so recently as 1879 the tenants, through their spokesman, said were so reasonable as to demand no permanent abatement. Till

the advent of the Land League nothing but cordiality, peace and goodwill prevailed on the estate. The change, although already in the air, did not openly show itself till the occasion of the dispute last autumn, to which your correspondent alludes as a 'refusal on my part to concede the traditional rights of the tenants.' The truth is as follows. Finding that some of those who went down to the shore to fetch seaweed were in the habit of damaging with their carts a piece of pasture which lay alongside the shore, I met them myself on the ground, and arranged with them to make a new and solid roadway for them over the loose sand on the condition that they would adhere to it. They expressed themselves delighted, using the usual hyperboles dear to them. I spent a large sum in making a road, which must have been a great saving and convenience to them. But they did not keep to their part of the bargain, and were summoned for again trespassing on the land. The Bench inflicted a nominal fine of 6*d.*, but the Land League, seeing the chance for raising an agitation, ordered the defendants not to pay, but to go to gaol, which some of them accordingly did with pomp and circumstance. I visited Ireland as soon as Parliament rose, and, again viewing the spot, gave them leave to go over this piece of pasture if they liked, saying that the matter was really of such small account as not to be worth raising the slightest ill feeling about. So much for my 'haughty and defiant demeanour.'

The second head of complaint is that I will not dismiss my keeper, who, according to your correspondent's informant, has been guilty of such bad acts. Well, as to the one specified, I can only say that to-day is the first time I have heard of it. After waiting for some weeks I received a list of similar charges, sent to me by the Secretary of the Local Land League (a nephew of the Rev. Malachi Browne), all of which I sifted carefully and found untrue. *But this one of the boy in the road was not then, I suppose, thought of*; anyhow, it was not mentioned. Certainly, the wilful firing at boys because they have not got gun licences is a matter far too serious to be allowed to lie 'perdu' till a London newspaper correspondent comes by. The person guilty of such acts should have been taken before the magistrates, and, if guilty, punished. But the gist of the movement against my keeper is contained in the fact that twice he received a message from the secretary of the Land League, to the effect that if he joined the League his life would be quiet and pleasant, but that if he persisted in refusing to join he would be driven out of the country.

Next as to my correspondence with the priests, which is characterised as 'petulant and haughty,' and 'showing evidence of a hasty and unreasoning temper.' I beg to enclose a copy of the letters which passed between us, and ask you to be good enough to let your readers judge for themselves.

Lastly, with reference to the two tenants visited by your correspondent, and described by him in picturesque terms. They are poor, no doubt—indeed, the Farrells are among the poorest on the

property, and were no doubt selected as such. I am very sorry they are poor. I am very sorry anybody is poor. How can men, however, be anything else as long as they continue to vegetate on two or three acres of land, and there is no capital forthcoming to give them employment off their holdings? There are two families of the name of Farrell which I can recall. I do not know which of the two your correspondent visited. But in one case the rent is considerably below the valuation; and in the other no rent whatever has been paid for more than three years. So in neither case can the rent be the cause of the poverty. The other man, Terence M'Garriagh, is an honest, hardworking man, who has paid his rent hitherto without complaint. I have just received a letter from him, informing me that he is going to borrow money from the Board of Works to improve his little farm. I hope he may get it, and thus better his circumstances.

*I have refused to make any general abatement of rent this year, not from a 'haughty and defiant' disposition, not from any such motive or in consequence of any such knowledge as you suggest in your leading article. I have refused simply because the rents, as a whole, being, in my opinion, just, and the harvest having been good, I see no reason for repeating the course pursued for the two past years on such a very liberal scale. I may also add that during the last thirty years something between forty and fifty thousand pounds have been spent on the property on roads, drainage, and other things, which have greatly improved the condition of the holdings, without any return being exacted in the shape of increase of the rental. I do not believe, with your correspondent, that 'there is not the slightest doubt that the Assistant Commissioners will reduce my rents' 'by 20 to 30 per cent.' Before the passing of the last Land Act I have allowed the tenants to sell their tenant right, and very large sums, in proportion to the size and rent of the holdings, have been given and received. Anyhow, desiring nothing beyond what is fair, I cannot retreat from my old-established rents, unless I am ordered by a superior and disinterested authority, such as the Land Commission, to do so.*

Though sorely tempted to add a few thoughts on the present disorganised, dishonest, and untruthful state of things in unhappy Ireland, I refrain from doing so, feeling that I have already occupied too much of your space.

I am, Sir, your obedient servant,

EVERYEN ASHLEY.

Blaenau Ffestiniog, North Wales, November 30.

'Cliffonoy, Sligo, Sept. 30, 1881.

'Dear Sir,—We have seen the list of charges drawn up by your towntry against your keeper, Barker, and from our interview with the people we are in a position to say they are not at all exaggerated. We regret to say that he has, and not on a few occasions, wounded, and wantonly so, the feelings of a very sensitive

people. We trust, as you value the esteem and affection of your tenantry, you will accede to their request, and remove from their midst a man who has given them so much just cause of offence, and occasioned so much disturbance in this parish. Hoping that the kindly relations that hitherto existed between you and those poor honest people will not now be disturbed or severed by the retention of this man,

'We are, &c.  
(Signed) 'MALACHI BRENNAN, P.P.  
'JOHN CUMMINS, C.C.'

'The Hon. Evelyn Ashley, M.P.'

'Davos Platz, Switzerland, Nov. 2, 1881.

'Dear Mr. Brennan,—I have hitherto delayed acknowledging the receipt of a communication which I received a short time ago in the handwriting of the Rev. Mr. Cummins, but signed by yourself as well as by him. The deep and long-standing feelings of respect and affection which I entertain towards you must explain the delay, for they made it impossible for me to answer as I ought a letter which begins by saying that the statements contained in a paper which was addressed to me by a certain individual well known to you were not at all exaggerated, whereas its contents may be summed up shortly as follows:—*All that was true was trivial, and all that was serious was false.* You, who have been so long and so honourably connected with the parish, must well know (even if younger and more inexperienced men choose to ignore it) that the mutual good feelings have not been impaired by action on my part or those belonging to me. We have remained the same, and though I fear the time has arrived when firmness must take the place of misunderstood conciliation, I hope that you, at any rate, whatever pressure is put upon you, will in your heart do justice to me and mine.

(Signed) 'EVELYN ASHLEY.'

'Palmerston Globe, Nov. 7, 1881.

'Dear Mr. Ashley,—I beg leave to acknowledge the receipt of your letter of the 2nd inst., in reply to one written weeks ago. That letter, if not in my handwriting, was written in my presence and signed by me and my curate. I would not put my name to it if I did not think I was justified in so doing. The mutual good feeling that existed of old certainly does not exist now. Of old they were never sent to prison for trespassing on the sands of Mullaghmore. It is not so now. Before you sent Parker here you surely told me you would send a person that would make himself pleasing and agreeable to the people. Parker is not that man. You have not, I think, a tenant in Ahamlish that likes him. You may yet, when it may be too late, regret your advocacy of him; this I tell you as a friend, what I am, and always was. He is the cause of our

having so many police between Clifney and Mullaghmore; he would be as safe without as with them. No one would hurt or molest him.—Yours,

(Signed) 'MALACHI BRENNAN.'

'61 Cadogan Place, London, Nov. 9, 1881.

'Dear Mr. Brennan,—Although I would much prefer not to continue a correspondence with you on such disagreeable topics as we have been writing about, I am obliged to send one more letter in consequence of a paragraph in your letter of the 7th, which is quite a model of the unfairness with which things are artificially blown up just now in Clifney, and which really makes one despair of the character of people with whom such statements are current. You say, as illustrating the change in behaviour towards the people, "of old they were never sent to prison for trespassing on the sands of Mullaghmore." Now I am not going to enter on the rights and wrongs of the story, which are beside the point, but nobody was sent to prison for trespassing, &c.

'You know well that a nominal fine of 6*l.* or 1*s.* was imposed, and they were sent to prison by the court for refusing to recognise its authority by payment. You know also well that of old they would have paid at once, and that even in this case some would gladly have paid if they dared. But really this is waste of ink: I know *Magna est veritas et prevalebit*, at last. This I believe, though it may be late.

Yours.

(Signed) 'EVELYN ASHLEY.'

## APPENDIX Y.

### THE DUNSEATH CASE.

The following is a report taken from the *Freeman's Journal* and the *Times* of the case of *Adams v. Dunseath*, upon the appeal by way of rehearing before the Chief Commission, sitting at Belfast in January 1882.

*Invid Adams, Tenant; Mrs. Jane Dunseath, Landlord.*

In this case both tenant and landlord appealed from a decision given at Ballymena by Messrs. Greer, Baldwin, and Ross. The tenant held 22*a.* 1*r.* 5*p.* statute, at Glarryford, county Antrim, the rent being 3*l.* 10*s.*, and the valuation 24*l.* 10*s.* The Sub-Commissioners reduced the rent to 3*l.* 15*s.*

Mr. W. H. Dodd appeared for the tenant; Messrs. H. Holmes, Q.C., Orr, and Overend appeared for the landlord.

David Adams, the tenant, deposed that James M'Kee had the holding before him. There was a house of 20*a.* 2*r.* 31*p.* Irish, for



twenty years, from November 1845, at a rent of 26*l.* 11*s.* 6*d.* There was also unreclaimed land at 15*s.* the Irish acre, which amounted to 44*l.* 10*s.* When the lease fell in about six years ago the rent was increased to 36*l.* 10*s.* Witness and his father had made a great deal of improvements. They had reclaimed 18 acres on one farm and fenced them. In addition part of nine acres of bog was reclaimed. He had also made 70 perches of a farm road. James M'Kee had built the mansion house on the holding, and witness's father had built some offices and a boiler-house and shed. James M'Kee was paid 20*l.* for his interest. The assignment was dated October 27, 1846. His father collected county cess, and witness himself shipped potatoes, butter, and eggs. Witness could not pay the rent without these other aids.

Cross-examined by Mr. Holmes—I am 36 years of age. I remember the farm 30 years ago. When I remember first I believe there was 18 English acres unreclaimed. The work on these 18 acres commenced when I was five years of age, and I was working on it last season. I asked for a piece of bog from the landlord to square up a field.

The first piece, I think, you got about 1868 for 7*s.* 6*d.* Am I not right about that? I suppose so.

In 1861 you got a piece more for 7*s.* 6*d.*? Yes.

In 1863 you got a piece more for 11*s.* 3*d.*, in 1866 another piece for 11*s.* 3*d.*, and in 1874 a final piece for 2*l.* 12*s.* 6*d.*, the aggregate being 4*l.* 10*s.* Do you remember Mr. Raphael when he came to value the lands saying to you, 'I will leave the bog exactly as it was, and my new value will be confined to the leased land?' That is not true; he did not say that to me.

When did your father build the boiling-house and shed? About 18 years ago.

And except the boiling-house and shed all the buildings were there as long as your memory goes back and before it? Yes, but I believe not long.

Andrew M'Kee deposed he had farmed this land for twenty years. His father and brother had also farmed it. When he had it, which was just before the lease, the rent was about the same rent as now, but the tenants had the cut away bog for pasture free. Adams had made vast improvements. He thought the reclamation was worth 20*l.* an acre.

Cross-examined—He thought tenant right was as high in 1840 as it was now. Prices were not as high now as they were then. He was getting 12*s.* and 14*s.* for corn then.

Mr. Orr—That happened to be a famine year; there was no corn to be sold. For that very reason were not rents much lower than they are now? They were. Before that landlords had not power to raise them; the old leases kept them in. The old landlords had more discretion and honour.

Mr. Dodd—The landlord at that time was Lord Mountcashel? Yes; he was an honourable old gentleman.

How much do you think it cost to build the house? It cost my brother, I heard him say, a great deal more than 240*l*.

To Mr. Vernon—He would value the reclaimed land at 7*s*. 6*d*. an acre, although 20*l*. an acre was laid out on it. 20*l*. is what Adams should pay to his landlord for the farm as it stood.

Alexander Robinson deposed that he valued this farm. It was one of the first farms he valued. but he valued farms since then. The landlord's rent for the land should be 22*l*. 2*s*. 3*d*., leaving the improvements to the tenant.

Cross-examined by Mr. Overend—Do you include or exclude the tenant's improvements? I exclude the tenant's improvements. We consider the value of the tenant-right over the entire holding would be worth about 12*l*. per acre. That contained nothing for the good-will.

So the tenant's improvements are value for 12*l*. an acre? Yes; we were informed by the tenant that when he went there the only portion of the land arable was 13 statute acres.

Do you put the same value on the tenant's interest in the 13 acres that you do in the 29 acres? We estimated the 29 acres at 11*l*. per statute acre for reclamation.

Then upon the 29 acres there should only be the 11*l*. for the tenant's improvements? For that I can't say; that is what we estimated the reclamation at.

Now, is there anything that gives value to those 29 acres but the reclamation? Except the proportion of the buildings.

What value did you assess per acre upon the old arable? 16*s*.

Is the tenant's interest in the portion that he got at the time of the lease in a laboured condition, with a house upon it, greater or less than his interest in the reclaimed acre? I should say, taking these and everything, it would be greater.

Greater by the difference that would raise the average to 12*l*. all round? I think so.

You say the value of the 29 acres is 11*l*. an acre, therefore the value you put upon the 13 laboured acres must be considerably higher to make the average 12*l*.? It may have been.

In making up your calculation of the 11*l*. for the reclaimed acres, did you treat each acre as reclaimed at the same time? I was not told exactly when they were reclaimed.

You would give 11*l*. for an acre reclaimed 30 years ago and also for an acre reclaimed last year? I suppose I did not inquire whether rent was charged in respect of acres that were reclaimed for the last twenty years.

A fair rent, then, would be a rent that would not infringe upon that 12*l*. an acre? I should think so.

Adding the tenant's interest to the landlord's interest, what would be the market value of the holding? I valued the land in its original unreclaimed state at 8*s*., and I put the reclamation at 11*l*.

Judge O'Hagan said that would come to 27*l*. 11*s*.

To Mr. Overend—The market value of the landlord's and

tenant's interest together would be 20s. per acre for the 13 acres, and 10s. an acre for the 29 acres.

Judge O'Hagan—Your estimate on the whole farm would be 44*l.* 9*s.* ? I did not make the calculation.

Mr. Holmes, addressing the Court, first for the landlord, stated that the Sub-Commissioners had not given the grounds upon which they decided in the Court below. Mrs. Dunscaith knew at the end of the cases that her rental was reduced from 224*l.* 12*s.* 10*d.* to 164*l.* 2*s.* 7*d.*, but why the reduction was made she was entirely ignorant. The invariable test of the fair rent of a farm was what would a solvent person undertake to give, having regard to all the circumstances of the case.

Mr. Litton—And under ordinary circumstances.

The tenant had agreed to give 4*l.* 10*s.* for the land added to this holding from time to time, therefore the question remained, was there anything unreasonable in raising the rent of 20*l.* fixed in 1842 to 32*l.* in 1876, having regard to all the changed circumstances of the country. He contended this case did not come within the 9th clause, and therefore was it not reasonable that in this case the landlord should be precluded from what was up to the time his right, viz.—to have rent placed on the improvements. The rent fixed in this case by the Sub-Commissioners was 30*l.* 15*s.*, which, taking into account the 4*l.* 10*s.*, would make it less than the rent was in 1846.

Mr. Wm. Raphael, valuator, examined by Mr. Orr, deposed that Lord Mountcashel's estate comprised nearly 200,000 acres of land. In 1844 about one-third of it was valued, and the valuation was all conducted upon precisely the same principles as in the first valuation, in 1842, of David Adams's holding. The latter was divided in this way. No. 1 on the map, consisting of 9*a.* 1*r.* 35*p.*, was valued at 20*s.* an acre, or 9*l.* 9*s.* 5*d.* No. 2, consisting of 1*a.* 7*p.* described as arable pasture, at 2*s.* or 1*l.* 6*s.* 1*d.* Another section of 6*a.* 2*r.* 26*p.* was valued at 32*s.* 6*d.* or 16*l.* 10*s.* 6*d.* Another portion, 1*a.* 1*r.* 28*p.* at 22*s.* 6*d.* per acre, or 11*l.* 12*s.* 1*d.*; and another portion, 1*a.* 2*r.* 29*p.*, at 22*s.* 6*d.*, or 2*s.* 14*s.* 6*d.* In the valuation then made no valuation was put on the houses. The rent fixed in 1842 was a reasonable rent for that time. In 1876 he made another valuation. At that time he was not in the employment as agent or otherwise of the landlady, but was employed by the agent. There was then held by the tenant a piece of bog for which he was paying 4*l.* 10*s.*, and that was not increased—in fact, he was desired not to look at it. There were 15*a.* 1*r.* 14*p.*, which he valued at 16*s.* per acre, or 12*l.* 5*s.* 5*d.*; 1*a.* 2*r.* 33*p.* at 18*s.* an acre, or 11*l.* 10*s.* 6*d.*; 10*a.* 3*r.* 6*p.* at 23*s.*, or 12*l.* 2*s.* 4*d.*; 2*a.* 1*r.* 9*p.* at 18*s.*, or 2*l.* 1*s.* 6*d.*; 2*a.* 2*r.* 36*p.* at 20*s.* 6*d.*, equal to 3*l.* 19*s.*; total, 31*l.* 17*s.* 6*d.*, to which was added 4*l.* 10*s.* for the bog. That valuation was made exactly on the same basis as the former valuation, and that increase was put on in consideration of the value of produce, putting on what he

considered to be a fair increase of the letting value, believing that the increase in prices of stock justified him.

Did you put on anything in respect of houses or anything of that sort? Nothing; I did not look at them.

Is that the invariable practice? Yes.

You consider the valuation you fixed a fair increase of the letting value? Yes, that the increase in the price of stock justified me, and I fixed a fair live-and-let-live value. I believe there is tenant right at the rent.

Cross-examined by Mr. Dodd—I was a young man starting when I assisted in the valuation of 1842. My opinion was taken in the matter by the other gentlemen, who took me into consultation whenever a difference of opinion arose.

*What was that valuation for? For an increase of rent.*

*For an increase of rent? Yes.*

For the purpose of sale? I did not say that.

*And was every valuation made since this on that same principle, viz.—for an increase of rent? Well, I came as near it as I could. I took no improvements into consideration, I put on additional value because stock is selling dearer now. It was double. I think corn is a little dearer, but not much. I sold a cow about two months ago for 22*l.*, and in 1842 I would not have got 10*l.* for her.*

To Mr. Vernon—In comparing 1842 with 1876 I put on 5*s.* an Irish acre.

Judge O'Hagan—*There is a most remarkable circumstance in connection with this increased rent. I see that to the old rent there was added exactly one-fifth to make up a new rent.*

Mr. Dodd—Yes, it is a very remarkable and significant fact.

Mr. Orr—The increase is just twenty per cent.

Judge O'Hagan—Just as if instead of re-valuing, a man took his pencil and did it adding on one fifth.

Mr. Holmes proposed to put in evidence as to the conditions under which two adjoining farms were held.

Judge O'Hagan declined to admit the evidence, holding that it would open up an interminable field of inquiry. Evidence might be given as to the general value of the land in the district.

Mr. Justice O'Hagan said—This case, the first appeal which has been heard before us, is one of the very greatest importance. The holding is not an extensive one, nor does the question of value present much difficulty; but it so happens that several of the most serious and most debated questions of law which have been mooted on the construction of the Land Act of 1881 require decision in this case. I regard this as a fortunate circumstance, inasmuch as an opportunity will be given, not by our decision alone, but by that of the Court of Appeal, of settling these questions at rest, and of determining the principles upon which our Courts must in future act. The facts of the case lie within a short compass. The holding consists of 42 acres 1 rood 5 poles, statute measure, which may be divided into two parts, one containing 20 acres 2 roods 21 poles

Irish, formerly held under a lease which expired in 1875, and of about nine statute acres of bog taken from time to time by the tenant since the expiration of the lease. The Sub-Commissioners fixed the judicial rent at 30*l.* 15*s.* Before approaching the question of rent, we have to discuss the principles upon which the rent is to be estimated, and, first, the controversy as to how far improvements effected by the tenant are to be excluded in estimating such rent. Mr. Holmes submitted to us certain legal propositions on the part of the landlord in this and other cases which, as applied to the present cases, are as follows:—(1) That the landlord is entitled to rent in respect of all improvements made previous to the expiration of the lease in 1875, inasmuch as such improvements were not made by the tenant or his predecessors in title. (2) If the Court declined to accede to his first requisition, that the landlord is entitled to rent in respect of all improvements made during the currency of the lease, except those made by the present tenant himself, inasmuch as his predecessors in occupancy were not his predecessors in title. (3) If the Court declined to accede to requisitions 1 and 2 then (a), that the landlord was entitled to rent in respect of all improvements made prior to the making of the lease of 1845, and (b) that the landlord was entitled to some rent in respect of improvements made during the currency of the lease, on the grounds that under the first clause of Section 4 of the Act of 1870 some deductions must be made in ascertaining the tenant's interest in such improvements from the value thereof, and upon the further ground that by holding under lease he has been, if not altogether, to some extent, compensated for his improvements. I now proceed to consider those propositions of law. Mr. Holmes's first requisition amounts to a demand on the part of the landlord of rent in respect of all improvements made prior to the expiration of the lease of 1845; and the legal ground is that those improvements were not made by the tenant or his predecessors in title. But it was proved in the case, and could not be contested, that some of the improvements were made by David Adams himself, the present tenant. The words of the statute are that no rent shall be allowed or made payable under this Act in respect of improvements made by the tenant or his predecessors in title. Is it to be seriously argued that David Adams is to be charged with rent in respect of improvements made by himself while in occupation of the land as tenant, because his tenancy under the lease has expired and he is now in possession under a tenancy from year to year, arising on the termination of the lease? I should have thought that such a proposition bore on its face its own confutation for its overthrow. It hardly needs my authority. In the course of the argument I called Mr. Holmes's attention to the case of *'Murphy v. Mahony,'* decided by Mr. Justice Lawson, and reported in 15 *Irish Times Reports*, p. 57. That eminent Judge held that, under the Act of 1870, changes in the nature of the tenancy did not affect the right of the tenant who had made them to claim for improvements. That decision is an express

authority on the construction of similar words in the Act of 1881. I pass now to the second of Mr. Holmes's propositions, which is of a more serious complexion. He calls on us to hold that the landlord is entitled to rent in respect of all improvements made during the currency of the lease, except those made by the present tenant himself, upon the ground that his predecessors in occupancy were not his predecessors in title. To sustain this proposition Mr. Holmes chiefly relied on the well-known case of 'Holt v. Lord Harborton,' That was a case arising under the 6th section of the Act of 1870, which provides that where either a landlord or a tenant is desirous of preserving evidence of improvements once made by himself or his predecessor in title, he may register those improvements in the prescribed manner. That is a case of the very highest authority, to which every Court in this country must explicitly bow; but I am bound to say that it seems to me not to have decided the abstract principle contended for. What is contended for in the present case, as the consequence of the decision in 'Holt v. Harborton,' is as follows:—That if a father, the lessee under a lease, makes valuable improvements and then dies, bequeathing the lease to his son, if the son, instead of at once surrendering the possession and claiming for compensation continues as tenant from year to year at the old rent and then submits to a new rent, his right to compensation for his father's improvements under the Act of 1870 is absolutely gone and forfeited. I do not think the case of 'Holt v. Harborton' or of 'Darragh v. Murdoch,' or of 'Milliken v. Harly' goes that length; and I should be slow indeed to hold it even on the construction of the Act of 1870. But we have not now the Act of 1870 alone. Under the express terms of the 7th section of the Land Law Act of 1881 no such *dictum* as is said to flow from the case of 'Holt v. Harborton' can be any longer considered law. This is conceded by the learned counsel for the landlord so far as regards the Act of 1870, but they say that Section 7 of the Act of 1881 must be construed as strictly confined to the construction of the earlier Act—that it is restricted to the case of a tenant quitting his holding. Therefore, according to their construction, when a tenant does not yield his holding, but seeks to have a fair rent fixed under the Act of 1881, he is met by the same rigid and highly technical rule of construction which was supposed to have interfered with the true intention of the Act of 1870, and which, therefore, the Legislature swept away. I cannot accede to this, nor think that under the 8th section a man is to be burdened with rent in respect of his father's improvements in precisely the same circumstances, which the Legislature decreed should not debar him from compensation for them. I now come to the second part of Mr. Holmes's third requisition, which in importance probably surpasses any other raised in this case. It arises on the latter part of Sub-section 90, Section 8, and is whether if a tenant building under a lease should, during the currency of such lease, effect improvements his enjoyment of those improvements during the lease can to any

degree be considered as a compensation by the landlord for the improvements so as to enable him to charge the tenant the same rent in respect of them at the termination of the lease. Section 4 of the Act of 1870 contains the following clause:—‘Where a tenant has made any improvements before the passing of this Act on a holding held by him under a tenancy existing at the time of the passing thereof, the Court, on awarding compensation to such tenant in respect of such improvements, shall in reduction of the claim of the tenant, take into consideration the time during which such tenant may have enjoyed the advantage of such improvements; also the rent at which such holding has been held, and any benefits which such tenant may have received from his landlord in consideration, expressly or impliedly, of the improvements so made.’ In considering this section, two things are to be observed—first, that it is confined to improvements made before the passing of the Act of 1870, and does not extend to improvements made since that Act; and, secondly, that the enjoyment is to be taken into consideration in reduction of the claims for compensation, not saying in what manner or to what degree, but evidently implying that in no case could the tenant’s enjoyment of his own improvements be deemed a complete compensation for them. Now turn to the difference of language in the Act of 1881. Section 4 of that Act says:—‘A tenant on quitting a holding of which he is tenant shall not be deprived of his right to receive compensation for his improvements under the Landlord and Tenant (Ireland) Act, 1870, by reason only of the determination, by surrender or otherwise, of the tenancy subsisting at the time when such improvements were made by such tenant or his predecessor in title, and the acceptances by him of a new tenancy.’ Whereas, in tracing a title for the purpose of obtaining compensation for improvements, it appears that an outgoing tenant has surrendered his tenancy in order that some other person may be accepted by the landlord as tenant in his place, and such other person is so accepted as tenant, the outgoing tenant shall not be precluded from being deemed the predecessor in title of the incoming tenant by reason only of such surrender of tenancy by him. And here there is nothing said as to the tenant-right being affected by the enjoyment of his improvements. But in order to enable the landlord to claim rent in respect of those improvements, he must, so to speak, have bought them from the tenant, paid him for them, or otherwise compensated him. Such compensation may take a hundred forms, which it would be impossible to enumerate; but it must, I conceive, be something given or done by the landlord as an equivalent for the improvements. Take the case of two neighbouring tenants holding under leases from the same term, and at the same rent—say 30*l.* a year each. One tenant by industry and outlay, effects improvements which make the holding worth 60*l.* The other does not improve at all, and his holding remains worth 30*l.* At the end of the lease, is the landlord under this Act to be entitled to assess the improving man at the full letting value of his holding,

on the plea that he had compensated him? It seems to me that this would simply be a judicial repeal of the clauses. In this view Mr. Litten concurs, but I regret to say that our colleague, Mr. Vernon, for whose opinion on all subjects connected with land—indeed I may say all subjects whatever—I have learned to hold the greatest esteem, does not adopt it. He thinks that this contention would work great injustice and hardship upon landlords. It is satisfactory to think that the Court of Appeal will soon put the question at rest. Having thus said what occurred to me on these very different and important questions of law, I now come to the question of value. It is not my intention to dwell upon it long, or to recapitulate the evidence which has been given. We found that the usual mode of valuing land in Ulster for the purpose of regulating rent was to put an estimate on the tenant's interest and the landlord's interest, and to fix a fair rent. The valuation in this case, Mr. Raphael said, was made on the basis of fixing in every case the reasonable rent at such a figure as would not interfere with the tenant's improvements. He adhered to his valuation of 1876, and declared that the rent of 31*l.* 17*s.* 6*d.* with the addition of 4*l.* 10*s.* for the bog, making together 36*l.* 7*s.* 6*d.*, was now the fair rent. Mr. Edward Murphy, a gentleman of high reputation as a valuer, said that he valued the land in the same way, field by field, making in each case an exclusion in his own mind of the tenant's improvements as he valued. This estimate of the fair rent is 30*l.* 2*s.* 11*d.* for the land formerly in lease, which, adding 4*l.* 10*s.* for the bog, would make his estimate of a fair rent for the entire, 34*l.* 12*s.* 11*d.* On the other hand, the valuers for the tenant went far indeed in their reduction. Mr. Robinson says he conceives that the lands, if in the hands of the landlord, might be worth 44*l.*, but in excluding the tenant's improvements, he brings the rent as low as 23*l.* 2*s.* 3*d.* Our official valuers, Mr. O'Brien and Mr. Grey, gentlemen of high ability and unimpeachable integrity, fix the letting value of the land at 37*l.* 10*s.* If this were to be deemed their estimate of a fair rent, there would be an increase of the actual rent fixed by Mr. Raphael. But this is by no means so. They merely excluded the buildings from their valuation in other respects, valuing the land as it stood, and from their valuation, therefore, if I be right in the construction of the statute, reduction must be made in respect of tenant's improvements other than buildings. We confirm the judicial rent. There remains the question of costs. The Sub-Commissioners have given the tenant his costs against the landlord. This we conceive to have been an error. They thought it right, we suppose, to follow the general rule of our Courts by which costs follow success. But this principle is, in our opinion, inapplicable to Courts such as ours. I do not term them Courts of arbitration. They would only in strictness be so if landlord and tenant came in together. They are Courts established by the Legislature to determine impartially a matter upon which various minds may reasonably differ in opinion; and exceptional cases apart, it would, in our judgment, be unfair to visit either party with costs in such a case. Of course, if the con-



duct of either party is such as to deserve reprobation, we may treat such cases as exceptions. The costs of the appeal are a different matter. An appellant comes into Court at his peril to set aside a distinct judicial decision. No doubt the right principle, as a general rule, is that an appellant who fails should pay the costs of the appeal; and hereafter, when the principles upon which the Court proceeds become more fixed and definite, it will be, we think, our duty to act upon it. But as yet they are to a great extent floating and indeterminate; and we cannot say that an appellant, especially in a case like the present, where questions of law of such moment are involved, was wrong in seeking to test the decision given below. We therefore vary the order of the Court below by declaring that the parties respectively should bear their own costs, and we give no costs of this appeal.

Mr. Litton, Q.C., concurring with Mr. Justice O'Hagan, said:—With reference to the question of fair rent, we should, in my mind, ask ourselves in each case, and as far as possible discover from the evidence, what annual sum could a tenant of ordinary capital, skill, and intelligence afford to pay, one year with another, for the holding as it stands, with a tenant's surroundings, regarding the circumstances of the holding and district, and assuming that the landlord had the farm in his own possession, to let it to a solvent tenant. The question is not what a tenant could be got to offer, but what he could be reasonably asked to pay; and consequently, in answering these questions, we should exclude from consideration, in my opinion, any increase of rent which persons might be induced to offer from a mere desire to acquire possession, or which might be procured by reason of circumstances affecting the person making the offer and not affecting the holding itself. Well, then, we should endeavour to ascertain the commercial or market value of the holding as it stands. We should exclude the competition value. The owner of land about to let a holding in his own occupation may demand whatever rent he pleases, and take whatever rent he can procure. It may well be that the desire to procure possession or the thirst for land will induce some persons to offer a rent far beyond the value; nevertheless, the owner has a perfect right to the competition rent. In estimating the rent between the landlord and the present tenant—that is, the tenant in occupation—whatever might be procured from the motives I have referred to beyond the commercial rent belongs to the tenant who holds the possession, just as it would belong to the landlord if about to let his land for the first time. It forms the element of goodwill, and is part of the tenant-right or property of the tenant in possession. It may be said there is no difference in principle between commercial or economic and competition rent. This may be true, and, in the case of the owners, is true; but in the case of the tenant in possession he has not the possession to give, and, therefore, cannot claim the competition value. That which he can claim, and has a right to, is the competitive value less by whatever should be deducted as

representing mere possession, which is a property in itself. The competitive value, less by the goodwill arising from actual occupation, I call the commercial value of the holding. The term may be somewhat inaccurate, but I know no better to express my meaning. From the result thus ascertained must be deducted the amount which the improvements of the tenant or his predecessors in title have contributed to the present letting value. The amount to be deducted is not of necessity to be estimated by the decimal equivalent in the way of interest for the sum expended. It may so happen that large sums have been expended in the effort or with the intention to improve, and yet the holding in its letting value may not have been improved by the expenditure. The question, therefore, is to what extent has the letting value been increased by the improvements, if at all? Deducting the latter, when ascertained from the former, we get a result which ought to represent a fair rent.

Mr. Vernon, dissenting, said—Sitting, as I do, in this Court as a judge of fact, not of law, it would be presumption on my part to follow my learned colleagues through the elaborate judgments which they have delivered. I can only say that in some important points these judgments do not carry conviction to my mind; and I learn with satisfaction they are to be submitted to the High Court of Appeal without any delay. These judgments appear to me to lay down principles and to lead to results which were never contemplated by the Legislature. I am therefore obliged, with much diffidence in my own opinion, but without any hesitation as to my duty, to dissent from these judgments. It follows that, dissenting from the judgments, I dissent from the valuations arrived at so far as those valuations are governed by the principles laid down in reference to the meaning and force of the words ‘otherwise compensated.’

## APPENDIX Z.

On October 25, 1881, the writer was lectured as follows by a writer in the ‘St. James’s Gazette’ :—

‘Mr. Frank Hugh O’Donnell has seized upon a statement lately made by a “Special Commissioner” of the “Standard,” and has turned it to ingenious account. The Special Commissioner, writing on the 27th ult., and said :—“By men of all classes—landlords, leaders of the League, journalists, and men of business—there is but one opinion expressed, which is this : that unless rents are reduced on the average by a very considerable amount, say 25 per cent., the Commission will be playing into the hands of Mr. Parnell during the coming winter.” Upon which Mr. O’Donnell remarks :—“Taking the total rental of Ireland at some 10,000,000*l.*, it follows that, unless the Land Act is to fail of its purpose, some 4,000,000*l.* at least per annum must be returned as tenant property

to the tenant. In my own opinion, the sums due out of existing rents to the tenantry under a fair rent system are more nearly 8,000,000*l.* a year than 4,000,000*l.* a year." Now we are not concerned with Mr. O'Donnell's calculations, or his notions of what constitutes a fair rent. What we wish to point out once more is, that Special Commissioners and Own Correspondents are in those days taking, and are permitted to take, a vast deal too much upon themselves in "forming public opinion." At the time when the "Standard's" Commissioner sent to London the rather doubtful news above quoted, it was generally understood to be a "feeler"—a sort of *ballon d'essai* sent up on behalf of the Land Court, which was already expected to take the line indicated by Judge O'Hagan in opening the Court. There is far too much of this sort of thing in the letters of "Own Correspondents."

About two months afterwards, the 'Pall Mall Gazette' contained the following note:—

'The list published by our Dublin contemporary (the "Irish Times") in November showed that in the 143 cases first heard, existing rents, amounting to 3,608*l.* 5*s.* 4*d.*, had been cut down to 2,731*l.* 9*s.* 3*d.*, making a reduction of 876*l.* 16*s.* 1*d.*, or 24½ per cent. The second list shows that on 290 farms the rent has been cut down from 8,049*l.* 9*s.* 11*d.* to 6,515*l.* 8*s.*—a reduction of 2,134*l.* 1*s.* 11*d.*, or a trifle more than 24½ per cent. The average rate of reduction shows remarkably little variation. The total result of the activity of the Sub-Commissioners is that rents on 432 farms, which formerly realized 12,257*l.* 15*s.* 3*d.*, will in the future only bring in 9,240*l.* 17*s.* 3*d.*—a reduction of 3,010*l.* 1*s.*, or as near as may be of 24½ per cent. If these cases are fair samples of the effect of the Act upon the rest of Irish estates, which, however, there is no reason whatever to assume, the income of the landlords will be diminished by about four millions sterling—a figure it is well to bear in mind when compensation comes up for discussion.'

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